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94th Congress } 2d Session

COMMITTEE PRINT

FEDERAL ENERGY REORGANIZATION

ISSUES AND OPTIONS

REPORT

TO THE

COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES SENATE

PREPARED BY THE

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FOR

Senator CHARLES H. PERCY, Illinois

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COMMITTEE ON
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WASHINGTON, D.C. 20510

September 7, 1976

The Honorable Abraham Ribicoff
Chairman
Committee on Government Operations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

An issue of high priority facing our Committee is the matter of rationalizing the current organizational structure for energy affairs in the Executive Branch. A number of proposals have been made, including your own contained in S. 3339. Within the next few months, the President will be forwarding for our consideration his own recommendations based on a Task Force study now underway under the auspices of the Energy Resources Council.

As you know, I consider this matter to be one of not only great urgency but also vital importance to the orderly future handling of the Nation's energy affairs. Hence, several months ago, I asked the Congressional Research Service to assist me in thinking through the fundamental issues involved.

Enclosed is the resulting CRS report, which includes a summary of two days of deliberation by public administration specialists at a workshop organized for CRS by the National Academy of Public Administration Foundation. I have found it to be a very helpful document, concise yet comprehensive. In the interest of sharing these insights with the other Members of the Committee, I request that it be published as a Committee Print.

Sincerely,

Charles H. Percy
United States Senator

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WASHINGTON, D.C. 20540

August 3, 1976

The Honorable Charles H. Percy
Committee on Government Operations
United States Senate
Washington, D.C. 20510

Dear Senator Percy:

On April 26, 1976, you requested "CRS assistance in thinking through the fundamental issues relating to organizational structure and in recommending any changes to improve the effectiveness and efficiency of Federal energy action." In response to your request, the Service, among other things, contracted with the National Academy of Public Administration Foundation to hold a two-day workshop in which a number of current and past officials in the Federal Government and academic specialists in the discipline of public administration exchanged views. Other CRS actions include a review of the pertinent literature and a survey of historical developments in Federal energy policy.

We transmit herewith the results of these actions. Included are the following:

1. U.S. National Energy Organization: The Policy Setting. A background paper by Frances A. Gulick, CRS.
2. Government Organization for Energy Affairs. Summary of a June 22-23, 1976, Workshop arranged for the CRS by the National Academy of Public Administration Foundation.
3. Government Organization for Energy Affairs: Statements submitted to NAPAF Workshop.
4. Selected Excerpts from the Transcript of Proceedings of the NAPAF Workshop.
5. Federal Energy Organization by Susan Abbasi, CRS. Review of organizational status at beginning of 94th Congress.
6. Bibliography: A Selected List of Readings Pertaining to Energy Policy and Energy Organization. Compiled by Adrienne C. Grenfell, CRS.

These documents trace the emergence of current U.S. energy policies, the history of Federal organization structures developed in response to the changing policies, current analyses and criticisms of both the policies and organizational structures, and, via the NAPAF workshop, contemporary attitudes toward both policy and organizational issues.

Two major points emerge, in our opinion. First is the issue of policy formulation vs. policy implementation. Clearly displayed in the attached documentation is a consensus among public administrators that, when one knows where he is going, the best organizational way to get there is via a strong, centralized organization within which are placed all the functions required for implementation. In counterpoint to this consensus is an equally strong consensus that the U.S. has not yet developed a comprehensive, agreed-upon policy to describe where it is going with respect to energy. A major unresolved issue is the relative role of augmented energy supply vs. augmented conservation and utilization efficiency. This lack of policy consensus raises basic questions about the extent of centralization (particularly between policy formulation and program implementation) which should be sought at this time.

The second major point is the issue of regulatory policy v. energy policy. In this issue area as well as the one above, the documents clearly show a consensus. In this case, that consensus is that there is as yet no agreement on how the various regulatory functions relate to each other, what the major regulatory issues are, and how regulatory policy might relate to energy policy. This fact indicates that significant regulatory reorganizational initiatives would probably be premature at this time.

Other energy organizational issues, such as data gathering and analysis, commercialization of Federally-developed technologies, and inconsistences among ongoing energy programs appear to be relatively insensitive to the more general policy issues already discussed.

I hope you will find this CRS exercise to be of value to you as you formulate your views on future U.S. energy organizational alternatives. Our efforts were led by Mr. David E. Gushee and Dr. Frances A. Gulick of our Environment and Natural Resources Division, who remain available to you and your staff should you wish additional information, analysis, or other support.

Sincerely yours,

Norman Beckman
Acting Director

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U.S. NATIONAL ENERGY ORGANIZATION: THE POLICY SETTING

A Background Paper

by

Frances A. Gulick
Analyst

Environment and Natural Resources Policy Division

August 4, 1976

I. U.S. NATIONAL ENERGY ORGANIZATION: THE POLICY SETTING

A Background Paper

CRS has been asked to analyze the effectiveness of the current Federal organizational structure, including the present administrative arrangements for formulating energy policy.

As background for the reassment of the administrative structure, it may be useful to examine the substance of U.S. energy policy as it has existed in the past and as it appears to be today. This paper is intended to serve that function by providing a descriptive overview of U.S. energy policy in the form of answers to the following questions:

(1) What was the substance of U.S. national energy policy up to the end 73?

The basic policy premise
Broad energy goals -
Who made substantive energy policy?

(2) What was the role of the Federal Government in shaping the substance of that policy?

(3) What policy changes can be identified in laws enacted and organizations created since 1973?

(4) What are recent proposals for further national energy policy?

(5) What are the prospects for a consolidated national energy policy?

(6) Are there major remaining policy issues, omissions or inconsistencies?

(7) What is the relationship between energy policy goals and other national objectives?

The ERDA National Plan
The OTA assessment
The ERDA National Plan revised
Budget options for 1977

1. What was the substance of U.S. national energy policy up to the end of 1973?

It has become commonplace to note the fact that there is no comprehensive, coordinated statement of what current U.S. energy policy is today and that there is no comprehensive coordinated Federal energy program. More than sixty Federal agencies with multiple counterparts at regional, State and local levels wield a wide range of authorities under an even wider range of laws and regulations. Collectively, their operations make up the legal environment within which the nation's total energy supplies are being produced and consumed, although their collective laws and regulations have not been formally codified in any statutory statement of energy policy.

The lack of a comprehensive policy statement or a coordinated Federal program does not mean, however, that the United States has not had a Federal energy policy in the past. On the contrary, there was a national energy policy based on a broad consensus. It was fairly specific, fairly clear cut, and it has operated over the past half century under broad Federal and State legislative endorsement, encouragement and support.

The Basic Policy Premise

Simply stated, it is this:

It has been U.S. national energy policy to rely to the maximum degree on private enterprise for the exploration, production, distribution, marketing and pricing of an evolving blend of fuels. Consumer choice among the various kinds of fuels was counted on to produce competition among suppliers which would in turn provide incentive to keep energy prices low. Federal intervention was intended to be limited to maintaining a business and regulatory environment conducive to abundant energy and providing a leading role in financing research in new energy technologies.

One of the more articulate statements of this policy was presented by J. Cordell Moore, then Assistant Secretary of the U.S. Department of the Interior, to the Energy Committee of the Organization for Economic Cooperation and Development (OECD) in January 1967.

> The very core of U.S. energy policy is that industry is responsible for production, distribution, marketing, and pricing, except in markets where fair prices cannot be guaranteed by competition, such as, for example, gas and electricity in interstate commerce. The Federal Government attempts to establish a climate favorable for the growth of the energy industries. It tries to stimulate initiative, to help advance technology, and to encourage and maintain competition. It monitors the overall energy situation to be sure that the national security and the broad interests of the public are protected, it applies constraints to the operations of the private sector where the public interest so requires, and it makes liberal use of the instrument of persuasion at times to influence the course followed by the private sector. But the Federal Government does not control production, it does not direct the efforts of industry, and it does not involve itself in company affairs. Even in the regulatory field its posture is mainly reactive rather than positive. Information on costs, reserves, processes, and plans is generally closely guarded by the companies and they are not required to divulge it... I stress our lack of authoritative knowledge concerning these matters because it is a basic part of our policy, and contrasts, I am sure, with the situation in nations in which the energy industries are nationalized.

****

> In stressing .... the lack of direct U.S. Government control over many aspects of our energy situation, I am outlining the essence of American energy policy and strategy. We try to achieve our objectives in the energy field by stimulating initiative in the private sector rather than by directing it or doing the work ourselves. We limit regulatory measures to areas where our objectives cannot be achieved by competition. And we attempt to avoid protective and other measures that

> add to cost, seeking instead to solve long-range problems of security of supply, cost, and other objectives through technologic advance. */

Replying to questions from OECD representatives regarding official estimates or forecasts of future energy production, the U.S. representative said:

> The United States Government does not issue official forecasts of energy production, nor does it issue directives of any kind to the energy industries regarding their future development. The Administration adopts general goals concerning economic growth and other national objectives, of course, and it attempts in the various ways we have indicated in our written statement to encourage the development and progress of the energy industries. But it does not adopt a plan for future development similar to those issued by many other other countries. Depending as we do on competition among the energy industries to achieve some of our goals, a specific plan for the development of individual industries would defeat part of our purpose.

It is important to bear in mind that the underlying rationale for this basic position is rooted deeply in a national bi-partisan constitutional adherance to the value of preserving and encouraging individual and corporate initiative, a point which the U.S. representative undertook to explain in some detail. His written submission leads off with a discussion of "the de facto nature of United States energy policies and their philosophical background", and includes the following among nine interrelated broad national goals:

---

*/ J. Cordell Moore, "Part I: Observations on United States Energy Policy", a paper dated November 1, 1966, prepared as background for the Confrontation on U.S. Energy Policy for the 11th Session of the Energy Committee of the OECD in Paris, January 26-27, 1967; and "Part II: Some Distinguishing Features of United States Energy Policy," his opening remarks at the session on January 26, 1967.

> Individual and corporate initiative are both a right and a consequence of freedom, and private enterprise is the most efficaceous means of producing and marketing most of the goods and services required by American consumers. A major responsibility of government is to create a climate that stimulates private initiative and enterprise.

This is modified by one of the other broad principles:

> While the private sector is responsible for most production and distribution of goods and services, government bears responsibility for maintaining and improving many services and engineering works that are required for the public welfare but are not readily or efficiently marketable by the private sector.

In addition to such readily identifiable functions as regulation of natural gas and utility rates, the Federal government has pioneered in development of hydroelectric power and in development and demonstration of nuclear energy and in production of enriched uranium for nuclear fuel. Statistically, however, production in Federal facilities amounts to only a small fraction of total civilian electrical supplies, still less than 3 percent in 1976, mainly in the form of electric power from hydro-electric stations. TVA, the Corps of Engineers and the Bureau of Reclamation produce and market power from both thermal and hydro sources. The Nuclear Regulatory Commission controls the imports and exports of uranium, thorium and other fissionable materials. ERDA manufactures and markets enriched uranium and may have to provide long term management for highly radioactive nuclear wastes. All of the electricity from nuclear power plants in the U.S. that are fueled with enriched uranium therefore depend on the Federal Government for this necessary fuel supply. As landlord , the Federal Government wields significant power, owning --and leasing to the private sector -- about 34 percent of the total land area. The mineral rights to an even larger area, including the Outer Continental Shelf, are also under Federal control.

Nevertheless, as measured by both the proportion of energy produced and marketed and by the intent of the policy, the Federal role in and control over the development of energy policies and patterns of use has been deliberately subordinated to the concept of least feasible interference with market decision and maximum reliance on private initiative and enterprise.

Broad Energy Goals

In addition to this basic energy policy position -- maximum reliance on private industry -- the U.S. representative also identified certain broadly understood and generally accepted energy objectives which were sought and which , with the exceptions which have been noted, the U.S. believes could best be achieved primarily through private sector energy interactions:

1. To assure adequate and diverse supplies of energy -- sufficient for continued economic growth, dependable under emergency and non-emergency conditions, and diverse in both source and form.

2. To assure the lowest possible costs and price consistent with sound business, labor and conservation practices, with health requirements, and with national security and fiscal needs.

3. To manage wisely and productively publicly-owned energy resources.

4. To operate efficiently public businesses that involve the production or use of energy.

5. To help meet broader economic and social objectives, including achievement of internal and external budgetary objectives and the protection of health, environment, and other resources from damage resulting from the production and the use of energy.

Who made substantive energy policy?

The result of this basic national energy policy position has been that, with very few exceptions, up to the end of 1973 the major substantive national energy policy decisions --decisions which are now the object of tumultuous congressional reconsideration -- were deliberately made the responsibility of the private sector.

These critical responsibilities, accepted and energetically exercised by the private sector, shaped national patterns of energy production and use in such fundamental policy vectors as :

-- the amount and direction of energy investment;

-- the extent and location of exploration;

-- the volume and rate of production;

-- the direction and mode of distribution;

-- decisions on prices at wholesale and retail level; and

-- the degree of national dependence on imported fuels.

In sum, up to the end of 1973 it was U.S. policy to rely to the maximum degree on private enterprise in the competitive market system to shape and make the principal components of U.S. national energy policy.

2. What was the role of Federal Government in shaping U.S. energy policy?

If the "very core" of U.S. energy policy was to rely on market forces to the maximum degree to make and execute the major substantive energy policy decisions, what was the primary role of the Federal Government?

As already noted in the previous section, government's primary responsibility was to "create a climate that stimulates private initiative and enterprise" and, except for taking the lead in developing new technologies, to keep Federal intervention in the market at a minimum.

Both the basic policy premise of maximum reliance on the private sector and its regulatory counterpart of minimum governmental interference had a wide bi-partisan consensual base which has been reflected in the legislative framework over more than half a century. Liberal tax incentives such as extensive depletion allowances for energy extraction and provisions allowing generous expensing of exploration costs had been regularly re-enacted with only minor changes for nearly sixty years before the changes reflected in the Tax Reduction Act of 1975, P.L. 94-12, signed March 29, 1975.*/

Similarly, Congresses of varying political persuasions have regularly reaffirmed support of the Interstate Compact to Conserve Oil and Gas,**/ an endorsement which since its first enactment in 1935 has served to reinforce the intent to rely on State laws promoting energy conservation and market stability by, among other measures, encouraging adjustment of supply to demand through prorating of production among the private producers of oil and natural gas.

An examination of energy-related Federal laws and directives through 1973 confirms this relatively self-limiting Federal role in energy policy formulation.

A compilation of federal laws relating to fuel and energy resources, prepared for the House Committee on Interior and Insular Affairs and issued in December 1972, reviewed and reprinted the energy-related sections of some 40 major laws, collating them by agency, and concluded:

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*/In addition to a number of changes which reduced exemptions involving foreign income, this law repealed the 22 percent depletion allowance in its entirety for all major oil and natural gas producers, identified as those producing more than 2,000 barrels of oil per day, or 12 million cubic feet of natural gas per day, postponing its abolition for independent companies who do not have retail outlets and produce less than these amounts, on a graduated schedule until 1984. The depletion allowance was continued for other extractive fuels.

**/ Most recently, in S.J. Res. 126, to extend the compact through December 31, 1978, which passed the Senate May 4, 1976. See "Interstate Oil Compact Extension," Hearing before the Senate Committee on Interior and Insular Affairs, 94th Congress, Second Session, on S.J. Res. 126, March 24, 1976, for a summary of recent discussions on the role of pricing as a conservation tool, in the context of the original purposes of the compact set out in Article II.

> If nothing more, arranging these laws by administering agency serves to underscore both the large number of agencies and other offices having some responsibility in the energy field, and the lack of central control over energy policy.. There is no national energy policy by which agencies having fuels and energy responsibility might gauge proposed actions in the way proposed actions must be assessed in terms of the National Environmental Policy Act. The National Environmental Policy Act has been interpreted to force a de facto review of energy policy by forcing an agency to consider the environmental consequences of developing fuels and energy resources -- some of which may be regulated by another agency. */

Similar conclusions were drawn by a Federal Energy Regulation Study Team, appointed by the President in July 1973 to review this area of organizational concern. The team, headed by then AEC Commissioner William O. Doub, issued its final report in April 1974. Among the principal findings were these:

> There is no mechanism for providing guidance on overall national energy objectives to regulatory agencies charged with developing and applying policies in specific energy areas.
>
> Studies of the Federal Government frequently call for the development of a "national policy" in one area or another, usually without result. It would be unrealistic to expect that a common and unified national policy could be formulated in detail for a subject as complex, diversified, and pervasive as energy. But a common set of goals and planning assumptions to guide regulatory deliberations is both feasible and needed.
>
> * * * * * * * * * * * * * *
>
> Agencies involved in energy regulation are obliged to act in strict pursuance of their statutory charters. Nevertheless, it is evident that an overall clarification of national energy policy can improve and rationalize regulatory decisions that have broad impact on the public interest and concern such matters as:
>
> 1. the relative end-use priorities for all forms of energy;
> 2. the efficiency of energy utilization and the restriction of energy demand;

---

*/ U.S. House of Representatives, Committee on Interior and Insular Affairs, 92nd Congress, 2nd Session, Compilation of Federal Laws Relating to Fuel and Energy Resources, Committee Print 92-7, 898 pp.

3. the relationship of energy supply goals to other national objectives, such as environmental protection, land use, international financial stability, and national security;
4. the use of Federal lands for energy purposes;
5. the development of new energy technologies, such as oil shale, coal gasification and liquifaction, synthetic natural gas, solar energy, nuclear fusion, and geothermal energy;
6. the distribution of operational energy responsibilities between the Federal Government and the private sector (e.g., exploration, data collection and pricing).

Much of the recent public discussion of energy regulation has centered on the issue of the long leadtimes required to obtain Federal permits. Delays and schedule slippages have been blamed (sometimes unfairly) on Federal regulation. However, the evidence gathered by the Study Team--particularly in the public meetings -- indicates that complaints about the uncertainty, inconsistency and indecisiveness of the regulatory system are even more intense and prevalent than the complaints about delay. The lack of a cohesive energy policy at the national level is perhaps the greatest single contributor to this and to the other deficiencies we have observed in the system. */

3. What policy changes can be identified in laws enacted and organizations created since the end of 1973?

The end of 1973 marked a major turn in the history of U.S. energy policy and energy formation. Almost overnight, Congress and the nation as a whole were forced to focus on the fact that an age of what had seemed to be one of unlimited energy supplies had become one of much more limited options.

Jolted into action by the mid-October embargo by Arab oil producers on oil exports to the United States and the almost simultaneous quadrupling

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*/ Federal Energy Regulation: An Organizational Study, prepared for public, congressional and agency comment by the Federal Energy Regulation Study Team, William O. Doub, chairman, published by the Government Printing Office, April 1974; 37 pp. with Appendices A through I.

of the price of imported oil, the 93rd Congress launched and the 94th Congress continued an almost non-stop marathon legislative debate on virtually every aspect of national energy production and consumption, investigating the operations of the major energy industries, reviewing underlying premises and still unresolved issues of national energy policy.

By mid-1976, the process of identifying and articulating a new national energy policy was well under way, already replacing, although only to a limited extent, the earlier de facto policy of maximum reliance on the private sector.

Beginning with the enactment of the Alaska Pipeline Authorization (P. L 93-153, signed November 16, 1973) and the Emergency Petroleum Allocation Act (P. L. 93-159, signed November 27, 1973), the 93rd Congress legislated a substantial consolidation and reorganization of several energy management functions. A new Federal Energy Administration was created (P. L. 83-275, signed May 7, 1974) to administer the provisions of the petroleum allocation act and undertake new energy information gathering responsibilities. A new Energy Research and Development Administration (P. L. 93-438, signed October 11, 1974) took over the research management functions of the former Atomic Energy Administration and non-nuclear research previously lodged in the National Science Foundation, the Department of Interior and other agencies.

The same law set up a Nuclear Regulatory Commission to handle licensing and other residual regulatory functions taken over from the Atomic Energy

Commission. An Energy Resources Council was also authorized, in the Office of the President, to serve as a two-year interim interagency coordinating unit with responsibilities for recommending changes and improvements in energy policy.

Continuing this intensive reassessment of energy issues and program operations, the 94th Congress has taken steps which begin substantively to replace the earlier policy premise of maximum reliance on the private sector.

The law which gives effect to this significant transition is the previously noted Energy Policy and Conservation Act of 1975, signed into law as P. L. 94-163 on December 22, 1975. Culminating more than two and a half years of almost continuous debate by the 93rd and 94th Congresses, this landmark law codified an enlarging compromise between Congress and the Administration and a new, though incomplete, national energy policy position.

The essence of this enlarging consensus was that management of price, supply and demand for oil -- the dominant fuel in our country--would now be subject to regular and continuing oversight by public government rather than being deliberately relegated to the private sector as had been the case up to the present. While the result may be that the price of oil may rise to equal the cartel-set import price, the process will be subjected to continuous Federal monitoring and statutory authority is in place for further intervention if this seems desirable in the public interest.

As finally enacted, the Energy Policy and Conservation Act consolidates the provisions of five major bills introduced in the 94th Congress and includes:

-- authorization to create a system of national strategic petroleum reserves;

-- a wide range of standby energy emergency legislation, including authority for allocation of scarce materials and petroleum;

-- graduated decontrol of oil prices over 39 months;

-- extended authority for the FEA Administratror to force industrial conversion from oil and natural gas to other fuels;

-- mandatory labeling for energy-using appliances; and

-- mandatory compliance with automobile fuel-efficiency standards;

-- authority to demand and receive energy information from all integrated oil companies on virtually all aspects of their operations has also now been claimed by and vested in Congress and its agents.

Other substantive energy actions are proposed in various bills covering mandatory building standards and winterization assistance, graduated deregulation of natural gas, and a wide range of taxation and other financial incentives to individual companies and private consumers to encourage capital investment, conservation, recycling or conversion to alternative fuels--measures which are said to be, in substantial degree, acceptable to the Administration. Other active proposals on which less of a consensus exists include Clean Air Act revisions, stripmining and other land use regulations, and establishment of quantitative oil import quotas.

Not all of these measures represent departures from energy policy as generally understood and practised before the end of 1973. It was to be expected that the Federal Government would assume responsibility for extraordinary allocation and conservation measures in time of energy emergency. Similarly, the action authorizing creating of national strategic petroleum reserves simply activates a long standing national security objective.

Special tax and investment incentives to industries and individual consumers to undertake energy production, conservation, recycling, solar or other renewable energy resources can be considered an extension of the old policy which provided incentives to the private sector but left the choice of acceptance and degree of action up to the private producer or consumer. Similarly, although both the 93rd and the 94th Congresses have intervened to insist that higher priority and resources be given to research and development of non-nuclear fuels and technologies, this move could still be considered to remain within the framework of the earlier policy which made Federal leadership in new energy technologies an exception to the premise of maximum reliance on the private sector.

Nonetheless, the assertion of congressional authority over the process of oil price deregulation and of independent energy information gathering powers are clearly Federal energy policy initiatives that substantively change previous national energy policy premises.

4. What are recent proposals for further national energy policy changes?

The two most active recent proposals for national energy policy are represented in the President's energy message of February 26, 1976, which updates the proposals for Project Energy Independence first unveiled in February 1974, and the Democratic Majority program, announced in February 1975, entitled "The Congressional Program of Economic Recovery and Energy Sufficiency," reissued in December 1975, annotated to show action taken during the first session of the 94th Congress.

The consensus summarized in the previous section */ represents a quite reliable and bipartisan legislated agreement on measures which both branches of government and both political parties believe are in the national interest, partially replacing the earlier major energy policy premise in the areas of price and information monitoring and management authority.

Both the Administration and the Congressional majority have engaged in another policy-related function, that of identifying quantitative production goals, a prerogative hitherto exercised almost exclusively by the private sector.

The Administration laid out the following as time-bound production targets, hopefully to be achieved by 1985:

-- Doubling coal production, to exceed one billion tons in 1985.

-- Increase domestic production of natural gas by over 4 trillion cubic feet in 1985 (25 percent increase).

-- Complete 179 nuclear power plants now planned or committed with a capacity of 196,000 megawatts, adding to the 57 nuclear plants now on line with a capacity of almost 40,000 megawatts.

-- Hold imports of oil and oil products to about 6.5 million b/d in 1978 and reduce to 3.5 million b/d by 1985.

-- Step up production from Naval Petroleum Reserves (NPRs) 1, 2, 3, and 4 to reach about 300,000 by 1979 and 1,000,000 by 1985.

-- Produce 350,000 b/d of synthetic fuels by 1985.

-- No quantitative targets were set for solar, geothermal or other renewable fuels.

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*/ See also The 94th Congress and the Energy Record, a progress report prepared by the Congressional Research Service for the Senate Committee on Interior, and Insular Affairs, April 1976. Committee Print, Serial No. 94-30(92-120).

The Congressional Majority also laid down time-bound quantitative goals not too different from those of the Administration:

- -- Double coal production by 1985.
- -- Natural gas production will stay about even.
- -- Nuclear and new sources of energy would double, from 2.5 million boe/d to 5.2 million boe/d.*/
- -- Hold imports of oil and oil products to 4 million b/d in 1980 and 1,000,000 in 1985. (However, H.R. 6860 which passed the House on June 19, 1975 and is pending in the Senate Finance Committee, target 6.5 million a day for 1980 and thereafter).
- -- Step up production from NPR's to 300,000 b/d by 1977 and 2 million b/d by 1985.
- -- Produce 500,000 boe/d of synthetic gas by 1985, which together with solar, geothermal and renewable fuels would be produced on a contract or joint venture basis with private industry.

The Administration continues to place central reliance on the private sector, proposing price deregulation for both oil and natural gas and relaxation of environmental constraints, combined with generous grant, loan and loan guarantee programs as incentives to private investors who would otherwise be unwilling to take the risk of the large commitments of capital needed for the required energy facilities.

In addition to a wide variety of tax and other fiscal incentives, the President's February 1976 energy message included the following:

- -- A $1 billion Federal Energy Impact Assistance Program in loans, loan guarantees and planning grants to finance energy-related public facilities prior to production.
- -- A $2 billion synthetic fuels commercialization program to aid the private sector in developing commercial facilities in these new fuels.
- -- A $100 Energy Independence Authority, a new government corporation to assist private sector financing of new facilities.

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*/ barrels of oil equivalent per day.

The Democratic Majority also endorses phased price deregulation of oil and natural gas and liberal tax, grant and loan incentives to speed private initiatives in both conservation and in expanding and developing additional energy supplies. Although the Majority, in general, opposes the Administration's proposed $100 billion Energy Independence Authority as a "give away to big business," its members have proposed generous alternatives. Recent examples are:

-- The Energy Conservation Act which includes $10 billion in grant, loan and loan guarantees to speed up both State and Government energy conservation efforts.

-- Synthetic fuel subsidy programs of up to $6 billion.

5. What are the prospects for a consolidated national energy policy?

Measured on these terms, the prospects for a consolidated bypartisan national energy policy which could significantly replace the previous de facto policy would appear to be fairly strong Although the Administration has been criticized for giving inadequate attention to the role of conservation and too low a priority to solar and other renewable fuels, these could be interpreted as reflecting differences of degree and timing, rather than substance.

The major remaining policy difference exists, not in the ends, but in the means which are to be invoked to achieve these quantitative goals, if the generous incentives prove insufficient to stimulate the requisite volume of private initiative and effort or if private industry selects very different quantitative energy production and consumption goals.

In contrast to the Administration's position, the Democratic Majority energy proposals include a number of mandatory quantitative energy management measures which, if enacted and enforced, would produce a a distinctive alternative to the Administration's much heavier reliance on a market-oriented approach.

Three key bills pending in the 94th Congress have incorporated mandatory quantitative control concepts of this type:

> -- The House Ways and Means energy bill (H. R. 6860) approved by the House, June 19, 1975, would place quantitative limits -- subject to some flexibility -- on the volume of crude oil and oil products which could be imported.
>
> -- The Senate national petroleum and natural gas conservation bill (S. 1777) would limit the number of oil-and-gas-fired powerplants and industrial boilers to those existing now and would require them to convert to coal by 1980; and require all new powerplants and industrial boilers to be capable of burning coal and to convert to coal by 1985.
>
> -- The National Energy Production Board (S. 740) to be patterned after the War Production Board of World War II, would be charged with establishing quantitative energy production goals and programs whose priority claims on scarce materials and capital would have the effect of placing quantitative limits on all less essential claims and energy and materials.

The Energy Policy and Conservation Act (H.R. 7014, later enacted as P.L. 94-163) includes discretionary authority to impose direct controls on refinery operations to limit the production of gasoline. It also extended the discretionary authority of the Federal Energy Administrator to compel powerplants and other industrial fuel burning installations to convert to the use of domestic coal. A quantitative ceiling on the volume of gasoline which could be consumned annually was included inthe bill as it passed the House, but was dropped in conference.

Although S. 740, S. 1777, and H.R. 6860 have been targeted by the Democratic Majority for early floor action, none of the three has yet been reported from their respective Senate Committees where mark up has been pending for almost a year.

The Administration is opposed to formalizing, through additional legislation, mandatory management tools of this type. Its spokesmen have argued that sufficient authority is available under existing legislation, including the Defense Production Act, to accomplish the purposes intended if future developments require more than enabling incentives and hortatory enjoinders to private industry to meet targets.

In any event, the issue of whether agreement could be reached on a consolidated national energy policy which would include such mandatory quantitative management measures remains moot until the bills as ultimately marked up are put to final vote.

6. Are there major remaining policy issues, omissions or inconsistencies?

The appearance of an emerging consensus on this wide-ranging, multi-purpose composite package of energy actions, however, does not add up to the equivalent of a comprehensive new national energy policy. On the contrary, the most important remaining issues rest on resolution of whether the basic policy premise, already modified, needs further substantive replacement.

The question was posed bluntly in the report to the Senate and House Committees on the Budget, published by the Congressional Budget Office on March 15, 1976, under the title "Budget Options for Fiscal Year1977":

> The major budget issues are the extent to which Federal financial support should shape future technology developments and stimulate their commercialization.
>
> At one extreme, it is argued that development of energy sources should be left entirely to the private sector, that rising prices will induce conservation and appropriately constrain demand, and that the forces of the marketplace will generate new supplies as necessary to meet demands. At the other extreme, it is argued that the marketplace will not provide stimuli adequate to achieve larger social goals,

> such as timely reduction in reliance on imports or preservation of environmental quality, and that the Federal Government will have to offer further financial and regulatory inducements to achieve social goals.

It should be noted that none of the substantive modifications reflected in energy legislation so far enacted would prevent continued reliance on the private sector for most of the key substantive energy decisions which, up to the end of 1973, had been made by private choice. Assertion of authority to moderate and monitor the rise of oil prices and to demand and monitor a wide range of data on energy production and consumption could still be consistent with allowing all the rest of the decisions to be made through the collective interactions of the private sector.

As outlined earlier in this essay these include, but are not limited to, such important vectors of policy as:

-- the amount and direction of energy investment;

-- the extent and location of exploration;

-- the volume and rate of production;

-- the direction and mode of distribution;

-- decisions on prices at wholesale and retail level; and

-- the degree of national dependence on imported fuels.

Furthermore, until actively replaced by a Federal directive to the contrary, or by a Federal energy policy or program that substitutes a public decision for the market composite of private acts, these decisions, as in the past, continue to be made by the private sector.

Consequently, present U. S. energy still leaves unanswered such critical related policy questions as:

-- Should oil imports be deliberately reduced by quantitative restraints to hasten the transition to other fuels or will this only "drain America first"?

-- What relative priorities are to be given to reliance on nuclear energy as compared with fossil fuels and with the development of alternative renewable fuels?

-- If voluntary private sector choices do not result in a distribution of investment and resultant output which reflect the chosen priorities, should mandatory measures be adopted to influence quantitative production results?

-- How much authority over siting of energy facilities and other related energy decisions should be delegated to State and lower local levels?

-- What should be the pattern of ownership, funding, organization and structure of the new or expanded energy producing and using systems? Is divestiture to any degree necessary or desirable?

-- How should crude oil prices be managed after the moderated, monitored increases reach the new world levels?

While the lack of answers to any of these questions may appropriately be labeled as "omissions", perhaps the major "inconsistency" would appear to be found in the issues relating to oil imports and price.

On the assumption that there may still be general agreement on the broad energy goals identified earlier in this essay */ any use of pricing as an energy policy tool ought at least to address itself to the general goals and objectives.

How high -- or low -- a price per barrel of domestic crude is needed to achieve these objectives:

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*/ See p. 6 above.

1. To assure adequate and diverse supplies of energy -- sufficient for continued economic growth, dependable under emergency and non emergency conditions, and diverse in both sources and form.
2. To assure the lowest possible costs and price consistent with sound business, labor and conservation practices, with health requirements, and with national security and fiscal needs.
3. To manage wisely and productively publicly-owned energy resources.
4. To operate efficiently public businesses that involve the production or use of energy.
5. To help meet broader economic and social objectives, including achievement of internal and external budgetary objectives and the protection of health, environment, and other resources from damage resulting from the production and the use of energy.

Similarly, what kind of import policy can most effectively support these goals? Oil imports, however high their price, at least arrive without domestic environmental risks or damage attendant on their production.

None of these issues can be answered within the framework of energy policy alone. Even these statements of broad energy goals already identify as parameters of constraint such other high priority national goals as "continued economic growth", and "national security and fiscal needs," a relationship discussed in the next and final section.

7. What is the relationship between energy policy goals and other national objectives?

There does not seem to be any disagreement, as between the Executive and Legislative branches or between the major parties, that energy policy goals ought to be at least considered in the context of other national objectives, if for no other reason than to assure that other high priorities are not unwittingly infringed by energy decisions -- short term or otherwise -- which cannot be deferred.

The examination of energy policy in the larger context of national priorities and goals is not new to the current energy debate, but until mid-1975 it was on an ad hoc basis and largely limited to foreign policy considerations. The Cabinet Task Force on Oil Import Control, reporting in February 1970, focused its full attention on the relationship of oil imports to national security. Project Independence, first unveiled at the Washington Energy Conference, February 11-12, 1974, acknowledged as reasons for striving for energy independence the need to relieve strains on world oil supplies, to avoid energy-caused balance of payments problems, and to prevent jeopardizing foreign policy and national security goals.

The national debate has recently been institutionally enlarged to include major national domestic priorities and policy goals as a focus for energy policy alternatives and decisions.

The ERDA National Plan .

A statutorily required national energy plan, issued by the Energy Research and Development Administration in June 1975, as "A National Plan for Energy Research Development and Demonstration: Creating Energy Choices for the Future," (ERDA-48, June 28, 1975) acknowledges in the Summary chapter that:

> This Plan recognizes five national policy goals as a focus for energy policy.
>
> -- To maintain the security and policy independence of the Nation.
>
> -- To maintain a strong and healthy economy, providing adequate employment opportunities and allowing fulfilment of economic aspirations (especially in the less affluent parts of the population).

-- To provide for future needs so that life styles remain a matter of choice and are not limited by the unavailability of energy.

-- To contribute to world stability through cooperative international efforts in the energy sphere.

-- To protect and improve the Nation's environmental quality by assuring that the preservation of land, water, and air resources is given high priority.

The OTA Assessment

While these goals as summarized in ERDA-48 were not elaborated to any degree in either of the two volumes which make up the Plan, their importance -- and the omission of further discussions -- was immediately flagged in an early evaluation of the report. An analysis of the ERDA Plan undertaken by the Office of Technology Assessment (OTA), at the request of the House Committee on Science and Technology and issued in October 1975, provides the first round of what could become an expanded debate on the crucial topic of the interrelationships of energy policy and national goals.

The authors of the OTA report take ERDA to task for adopting what they call a "very narrow, technological interpretation" of the five national policy goals. Their comments on two of these goals are reproduced here:

With reference to the first goal--"To maintain the security and policy independence of the Nation," the OTA appraisal states:

> ERDA, especially in the systems methodology of ERDA-48, volume I, reduces this goal to a narrow concern for eliminating oil imports, which seriously distorts the meaning of policy independence. ERDA could have read this goal as a mandate to explore with a far greater sense of urgency any of the following, for example:

-- New international institutions for managing fissionable materials and fission products.

-- The role of the multinational corporations in global energy policy and the impacts of actual and potential United States, foreign, and international regulations on their conduct.

-- The potential role of the United States as an exporter of fuels (e.g., coal and uranium) and energy technologies (e.g., solar heating and cooling and synthetic fuel processes).

-- The potential for cartelization of critical materials other than oil, notably uranium.

Commenting on the ERDA treatment of the second goal, summarized in ERDA-48 as "To maintain a strong and healthy economy, providing adequate employment opportunities, and allowing the fulfillment of economic aspirations (especially in the less affluent parts of the population"), the OTA appraisal states:

> ERDA nowhere interprets this goal explicitly. The goal statement perhaps does not address a critical question concerning energy and society -- the degree of coupling of the maintenance of "a strong and healthy economy" with the perpetuation of increases in the quantity of physical resources used in the Nation's economy each year. ERDA's scenarios (including its conservation scenarios) postulate exponential increase in the use of these resources, continuing indefinitely. ERDA could have seized this goal as a mandate to launch a vigorous socioeconomic research program to gain some understanding of the relationship of economic growth, energy, and the quality of life, and to shed light on the potential viability of low-growth societies.

The OTA assessment finds the need for early review and agreement on the relative priorities to be assigned to these goals:

> Unless there is agreement between the Administration and the Congress on the priorities given different national energy goals, ERDA's development of an R, D & D program is made more difficult.
>
> A congressional review of the priorities assigned to the five goals takes on particular importance because energy is so central to other policy areas. Other Government agencies will be planning programs ranging from foreign trade to welfare based on their perceptions of these priorities. For those reasons maximum clarification of priorities will be beneficial.

The ERDA National Plan Revised

The Executive Summary of the revised report, ERDA-76, dated April 15, 1976, omits reference to national goals. However, the report repeats the original version in Chapter II, introducing the same five goals with the phrase, "The National Plan for Energy RD & D is based on five national goals formulated to guide the introduction of new technology." There is no subsequent elaboration of the relationship to these goals of the proposed programs for a national energy research and development effort.

Budget Options for 1977

Another opportunity for considering energy policy options within the wider framework of national priorities is provided by the new Congressional budget review procedure. A recent document already mentioned in this paper, "Budget Options for Fiscal Year 1977," includes, pursuant to the instructions of Public Law 93-344, a number of alternative five-year budgets, three of which were set forth this year as illustrative program and funding mixes which could emerge from differing national priority emphases.

The three illustrative budgets permit comparison of choices based on three major premises: in the first case, emphasizing national security; in the second, concentrating Federal efforts on social programs; and, in the third, strengthening control by state and local government and the private sector.

The author, CBO Director Alice Rivlin, emphasized the purely illustrative character of these budgets and pointed out that in none of the cases would even "a relatively 'pure' philosophy" necessarily produce any particular combination. Any of them could include almost infinite variants among the related priorities.

For example, under the first option outlined where prime concern was assumed to be national security, with defense expenditures rising from $106 billion to $158 billion over five years, the following were suggested as energy-related actions:

-- Increase flexibility and efficiency of the national transportation system, through changes in regulations; maintain current level of support for Federal-aid highways, aviation programs, rail, mass transit, water, and other transportation programs.

-- Stimulate major industrial adjustment to constrained energy markets, by increasing Federal initiatives in energy R & D and technology demonstration, providing incentives for commercialization of energy research and production, phased decontrol and deregulation of domestic energy markets, and increasing support for other resource development programs.

The possibility of alternative energy programs, as of programs supporting other related priorities, appears fairly easy to envisage in this case. At other times in the nation's history, expansion and modernization of the armed forces was accompanied by increased, rather than decreased, control of the private market, and by increased taxes, rather than tax cuts, in order both to finance increased military expenditures and to curtail civilian expenditures which could stimulate inflation.

It is interesting that the third suggested option, where prime concern is assumed to be an "emphasis on returning control to State and local governments and the private sector," includes estimated levels of federal energy and natural resources expenditures for 1977-1981 identical to those suggested for a budget giving primary priority to national security, although within these identical levels differing energy program combinations could be found.

As noted earlier, in discussing the issues which are involved in choosing among alternative energy program options, the report highlights the critical role played by the confrontation of views of (a) those who believe that maximum reliance on the private sector and the market will best serve the objectives of reducing and redirecting energy demand and of increasing energy supplies; and (b) those who believe the dynamics of the marketplace will not be adequate to achieve these objectives.

These exchanges are useful as illustrations of how energy policy goals and policy and program decisions need to be -- and can be -- considered in the context of other major national priorities.

II. GOVERNMENT ORGANIZATION FOR ENERGY AFFAIRS

A Summary of a
June 22-23, 1976 Workshop

Arranged for the
Congressional Research Service

by the

National Academy of Public Administration Foundation
Washington, D.C.

July 1976

Preface

This paper summarizes the principal observations on the government organization for energy affairs raised in the course of a June 22-23, 1976 workshop in the Whittall Pavilion at the Library of Congress. The workshop was arranged by the National Academy of Public Administration Foundation for the Congressional Research Service in response to a request by Senator Charles Percy of the Senate Committee on Government Operations. Its timing and content were designed to assist that Committee in its consideration of legislation extending or revising the authority of the Federal Energy Administration and other Executive energy bodies.

In addition to the transcript of the discussions, this summary draws upon written statements submitted by a number of participants and other authorities, and discussions with a few persons who were unable to attend. Because of time pressure, it has not been reviewed by participants.

Agenda

Workshop on Government Organization for Energy Affairs

Arranged by the National Academy of Public Administration
for the Congressional Research Service

June 22-23, 1976
9:30 AM to 4:30 PM each day
Whittall Pavilion, Library of Congress

Tuesday, June 22

9:30 -- 11:00	Introduction - Senator Charles H. Percy. Energy programs: Federal Energy Administration, Energy Research and Development Administration, and Interior
11:00 -- 12:30	The regions, states, and cities
12:30 -- 1:30	Lunch
1:30 -- 3:00	On getting adequate, reliable data
3:00 -- 4:30	Program coordination and central policy formulation: Federal Energy Administration, Energy Resources Council, Energy Research and Development Administration, Office of Management and Budget, and the Economic Policy Board

Wednesday, June 23

9:30 -- 11:00	Regulation: Federal Energy Administration, Federal Power Commission, Nuclear Regulatory Commission, etc.
11:00 -- 12:30	The Senate, and Congressional agencies: General Accounting Office, Office of Technology Assessment, Congressional Budget Office, Congressional Research
12:30 -- 1:30	Lunch
1:30 -- 3:00	Industry and the public
3:00 -- 4:30	Summary: findings and conclusions

GUIDELINES FOR WORKSHOP PARTICIPANTS

The timing and content of this workshop are designed to assist the Senate Government Operations Committee in its consideration of legislation extending or revising the authorization of the Federal Energy Administration and other energy organizations. Workshop participants and other authorities who are unable to participate but wish to make their views known are invited to respond to the following broad questions, and to as many of the subsidiary questions as they wish. Replies, a full transcript of the workshop discussions, and a summary of the principal conclusions will be placed on public record and will be available to the Congressional Research Service, the Government Operations Committee, and other interested parties.

Broad Questions

A. What are the principal weaknesses in the present organization and administration of federal energy programs and how may they be rectified?

B. What are the principal weaknesses in present arrangements for formulating, coordinating, and implementing national energy policies and how may they be corrected?

C. How can energy policies and plans be integrated with broader national economic and social goals?

Subsidiary Questions

1. Federal Operating Programs

The greater centralization of major energy programs--particularly those of Interior, ERDA, and FEA--into a Department of Energy and Natural

Resources has been advocated in several quarters; the amalgamation of the policy responsibilities of FEA with the operating and policy responsibilities of ERDA into a National Energy Administration has been recommended as a logical first step to the creation of such a department.

What are the benefits and drawbacks of these two proposals? Can a better regrouping of programs be suggested? On balance, is any regrouping superior to existing arrangements?

2. Regulatory Functions

Regulatory responsibilities with significant consequences for energy supply and conservation now lodge in the Federal Power Commission, the Nuclear Regulatory Commission, the Department of Interior, the Federal Energy Administration, and the Environmental Protection Agency, as well as the Treasury and other agencies. Conflicts are apparent between the objectives of certain regulatory agencies, such as FEA and EPA, and between the assurance of increased energy supplies and public safety, health, and other social objectives.

Can and should some organizational and/or administrative steps be taken to reduce or temper these conflicts, and if so, what steps? Should a closer compact be arranged between at least some regulatory agencies such as FEA and FPC?

3. Policy Formulation and Coordination

Responsibility for the formulation and coordination of energy policies is now lodged in a number of agencies, including the Economic Policy Board, the Energy Resources Council, the Office of Management and Budget, and the FEA.

Are these arrangements satisfactory or, if not, why not? What arrangements now exist for reviewing energy policy in the context of national security, environment, and full employment goals? Are they adequate? Should the policy responsibilities, authority, and resources of any of these bodies--particularly ERC and FEA--be modified? Is a new policy-making body needed?

4. Data Collection

Industry complains about the excessive and duplicative data demands of government agencies; others complain that present data are inadequate for planning purposes and for the formulation and timely revision of energy policies and regulations, and that data are either misrepresented or selectively reported to promote the interests of those who supply or report it.

Are changes indicated in the present agency data responsibilities and performance? Can better data be obtained by assigning to a new agency, or a component of an existing agency, special powers, responsibilities, and independence?

5. Conservation

Responsibility for energy conservation programs is dispersed among several agencies, including ERDA, FEA, DOI, and EPA. Some critics contend that the potential of energy conservation is being largely neglected. Should the organization for conservation policy and programs be changed, and, if so, how?

6. The Senate and the Congress

Are any changes called for in the organization and responsibilities of the Senate and other Congressional entities such as the General Accounting Office, the Congressional Budget Office, and the Library of Congress to discharge better their responsibilities in energy affairs? What are the implications for the Senate of a continuance of present Executive arrangements? Of a greater centralization of Execuitve energy responsibilities?

7. The Regions, States, and Localities

Attention has lately been focussed on conflicts between the energy policies, interests, and powers of state and federal agencies in such matters as the power of eminent domain and of licensing, regulating, taxing, and aiding the extraction, production, and delivery of fuel and energy.

Are such conflicts inevitable or can they be reduced by closer collaboration of state and federal authorities in energy planning, policy formulation, and implementation? Are present mechanisms adequate to promote this collaboration or is new machinery and authority needed?

8. The Private Sector

For all its powers, the federal government is powerless without the cooperation of industry and the public, yet there is ample evidence of suspicion and distrust between the government and many sectors of industry; public attitudes and consumption habits can vitiate the best energy plans and policies.

What can the government do to secure the fuller cooperation of industry and the public in defining and attaining the nation's energy goals? Are new private organizations and activities needed for this purpose and, if so, what should the government do to help them succeed?

Participants, June 22-23 Energy Workshop

Charles F. Bingman, Deputy Administrator, Urban Mass Transportation Administration; former energy specialist, Office of Management and Budget

Lynn Alan Brooks, Commissioner, Connecticut State Department of Planning and Energy Affairs

Monte Canfield, Jr.,* Director, Energy and Minerals Division, General Accounting Office; former Deputy Director, Energy Policy Project, Ford Foundation

Chester L. Cooper, Institute for Energy Analysis, Oak Ridge Associated Universities; former Director, International and Social Studies, Institute for Defense Analyses

Alan L. Dean, Vice President, U.S. Railway Association; former Senior Analyst, Bureau of the Budget; Assistant Secretary, Department of Transportation

William O. Doub,* Attorney; former Commissioner, Atomic Energy Commission; Chairman, Federal Energy Regulation Study Team

George C. Eads,* Executive Director, National Commission on Supplies and Shortages

Harold B. Finger, Manager, Center for Energy Systems, General Electric Company; former Director, nuclear systems and propulsion, National Aeronautics and Space Administration and Atomic Energy Commission

Bernard L. Gladieux, Consultant; former Partner, Booz, Allen and Hamilton; Director, Knight, Gladieux and Smith

Charles J. Hitch,* President, Resources for the Future; former President, University of California; Assistant Secretary, Department of Defense

Frank Pollara, Special Assistant to the Officers, American Federation of Labor-Congress of Industrial Organizations

Clem Rastatter, Director, Energy Conservation Project, The Conservation Foundation

Cecily Cannan Selby, President, Americans for Energy Independence; former Executive Director, Girl Scouts

Robert F. Steadman, Consultant; former Director of Government Studies, Committee for Economic Development

William E. Warne,* Consultant; former Assistant Secretary, Department of Interior

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* Submitted written statement.

National Academy of Public Administration

Roy W. Crawley, Executive Director (workshop chairman)

Erasmus Kloman, Harold Orlans (staff)

Contributors[**]

James E. Akins, former Ambassador, Saudi Arabia; former Director, Office of Fuels and Energy, Department of State; Energy Adviser, White House

Harold P. Green, Attorney; Professor, National Law Center, George Washington University

William A. Johnson, Director, Energy Policy Research Project, George Washington University; former Assistant Administrator, Federal Energy Office

Hans H. Landsberg, Co-Director, Energy and Materials Division, Resources for the Future

John C. Sawhill, President, New York University; former Administrator, Federal Energy Office

Chauncey Starr,[*] President, Electric Power Research Institute; former Dean, School of Engineering, University of California at Los Angeles; former president, Atomics International

Mason Willrich, Professor, Law School, University of Virginia

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[*] Submitted written statement.

[**] Did not attend workshop but provided helpful counsel.

Acronyms

AEC	Atomic Energy Commission
CBO	Congressional Budget Office
CEQ	Council on Environmental Quality
CRS	Congressional Research Service
DENR	Department of Energy and Natural Resources (proposed)
EPA	Environmental Protection Agency
ERC	Energy Resources Council
ERDA	Energy Research and Development Administration
FEA	Federal Energy Administration
FPC	Federal Power Commission
GAO	General Accounting Office
NRC	Nuclear Regulatory Commission
OMB	Office of Management and Budget
OTA	Office of Technology Assessment

A Central Energy Agency or Department?

The arguments for and against concentrating important energy programs in a major new agency or department were extensively discussed.

Against a Central Agency: Reorganization is costly in the time it takes a new agency and new officials to settle in and function effectively. There has been too much energy reorganization already and too frequent changes in leadership and direction--"The United States has had at least nine energy czars in three years."* ERDA was established only in January 1975 and should be given a chance to prove itself. It could be hurt by inclusion in a new agency, especially a department in which old line agencies of the Department of the Interior would have a major voice. Large bureaucracies are often inefficient and have difficulty attracting good people to serve in subsidiary positions; ERDA is already "a giant" and FEA, "a jungle." There is a tendency to expect too much from a new organization--that it formulate and implement a consistent national energy policy, whereas the inconsistency of government policies reflects the diversity of domestic interests that is likely to persist despite any reorganization.

A large agency can lead to an excessive concentration of power and the reduction of public debate, the subduing of rejected viewpoints that can find expression in one of many independent agencies. This viewpoint was stressed especially by Clem Rastatter, who feared that conservationist efforts might lose out in a centralized organization, and by Chauncey Starr, who was concerned to maintain a maximum number of policy options. In a fragmented structure, policy conflicts are more likely to be aired in public before they are resolved in the Executive Office of the President and the Congress.

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* William A. Johnson, "Why U.S. Energy Has Failed" (April 1976), in Robert Kalter and William Vogely, eds., Energy Supply and Government Policy, Cornell University Press (forthcoming).

All of the programs and powers important to the formulation and achievement of the nation's energy goals could be concentrated in a single department only if the entire government were put into one department. The Treasury, State, Defense, Housing, and Transportation departments, for example, all have major responsibilities that effect the supply or use of energy and therefore will remain powerful independent forces in energy affairs. Nonetheless, many programs are candidates for inclusion in a centralized department.

A major centralization of energy programs and controls assumes that we know, or can resolve upon, a concerted course of action to deal with the nation's complex and difficult energy problems. "Since we don't know the right answers, it is very dangerous to assume one direction to the detriment of all others....With an uncertain future and uncertain outcomes of any action the wisest path is one of multiple programs, each of which has potential merit either as an investment in our energy future or as an insurance against negative outcomes. The answer...is judicious diversity" (Chauncey Starr).

For a Central Agency: The present dispersion and fragmentation of agencies and programs produces waste, confusion, duplication of effort, and needless bureaucratic conflicts. The nation has accomplished too little for its energy efforts and expenditures -- "we're not getting very far very fast." Though the amalgamation or agglomeration of independent agencies into a large organization provides no assurance that their independent programs will be coordinated, duplicated activities eliminated, and conflicting policies reconciled, it makes these goals more feasible. To be sure, all energy programs and powers cannot be concentrated in one department, but the secretary of a modern department has the power and resources to forge and administer meaningful national policies and to defend them in Executive and Congressional councils more forcefully than can the heads of numerous minor agencies. And the assignment to one secretary of responsibility for fractionated energy functions can promote more balanced programs, as the formation of ERDA has promoted a better balance between research on nuclear and other fuels and the Department of Transportation has helped to provide a better balance between automotive and other modes of transportation.

The key to the effectiveness of a modern department is the assignment to it of major related functions; the removal of encrusted legislative restrictions; the transference to the secretary of power to realign functions and to delegate responsibilities as he sees fit; and the provision, in the secretary's office, of sufficient, high-quality staff to monitor, evaluate, and coordinate the previously independent functions and to propose general policies. It is not size but the failure to clarify and delegate responsibility that creates inefficiency and makes the recruitment of able staff difficult. The fear that a department will inhibit public debate is unwarranted--"The Cabinet Secretaries are not going to take over the country." Secretaries and their line officials are accountable to the Congress; close communication with, and promotion of, their special constituencies is characteristic of departmental units, which leak like sieves. Contrariwise, the dispersion of functions among independent agencies frustrates public accountability and participation in policy development, as agency conflicts are resolved by nameless presidential aides protected by Executive privilege, operating in a highly politicized situation, and unaccountable to the Congress or the public. A major reorganization of energy affairs would be opportune and advisable early in 1977, when a fresh administration should enjoy the customary period of grace extended to a newly elected president.

The Composition of a New Energy Agency

Few would perpetuate the present Federal Energy Administration, a stopgap agency with inadequate and temporary authority and accomplishments. A reconstituted FEA, given stronger powers and data-gathering functions, together with ERDA, and a new public body to finance energy facilities, such as the proposed Energy Independence Authority, would constitute the core of any new agency. The distinction between an energy "agency" or "authority" and a "department" hinges largely on the Department of Interior natural resource responsibilities that might be incorporated in the latter, particularly the Bureaus of Mines, Land Management, and Reclamation; its five Power Administrations; and the Geological Survey. Opponents of a Department of Energy and Natural Resources fear that it will be nothing more than "a retreaded Interior," a stultified bureaucracy that is a "captive" of Western interests. They might favor such a department were it possible, by waving a wand, to make existing statutes and staff vanish and reappear in fresh forms suited to current realities.

In an independent ERDA, Senator Percy suggests, "researchers tend to select...technical approaches which do not completely meet the needs of the users of new technology...." The inclusion of ERDA in an agency with broader energy functions should link research more closely to application and, hence, promote the early adoption by industry and the public of new modes of energy production, transmission, and conservation. It would also, Charles Hitch observes, be more likely to provide incentives for private energy research and demonstration:

> A technology oriented agency like ERDA, with the best of intentions (which it has), is always likely to "tilt" toward government sponsored R and D. In a Department of Energy and Natural Resources, an Assistant Secretary for Fossil Fuels, for example, exercising what are now FEA and ERDA and perhaps other functions, might be expected to ask: wouldn't it be better if industry built this demonstration plant...and isn't there some way--other than a government R and D contract--to induce them to do it? Or an Assistant Secretary for Conservation might well decide that the most effective thing he could do in the residential area would be to provide help to homeowners to finance the purchase of insulation, heat pumps, and (hopefully before long) solar heating and cooling units.

However, some consider the resultant emphasis upon the early commercialization of new technology as grounds for opposing the inclusion of ERDA in a larger agency, because they regard commercialization as a proper function of industry, not government, or because they are concerned lest attention to short-term technological improvements draw attention and funds from such long-term developments as fusion, the breeder reactor, or solar energy, And Chauncey Starr is so much in favor of the dispersion of power that he would break up ERDA into three agencies devoted, respectively, to nuclear energy, fossil fuel, and advanced technical systems.*

Even if all of Interior, including the National Park Service and the Bureau of Indian Affairs, were absorbed into a new department, significant energy-related programs such as those of the Forest Service, the Army Corps of Engineers, and the National Oceanic and Atmospheric Administration would remain in other departments. The location of the independent Environmental Protection Agency and the Council on Environmental Quality in the Executive Office of the President would also have to be determined. Some favor and others oppose the addition of EPA to a department, but even those who favor it would retain the CEQ as an independent voice for environmental concerns at the highest levels of government.*

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* "...it is clear from the structure of ERDA that this agency has segregated itself into several major areas. The current experience with that agency would indicate that it could probably be operated more effectively if the nuclear sector, the fossil fuel sector, and the advanced technical systems each had the national status which was originally that of the five-man AEC. The overlap of technical programs between such groups is so small that coordination of their activities could well take place at a coordinating level rather than at an operating level."

The location of regulatory and data-gathering functions will be discussed subsequently.

In sum: A minority of workshop participants favored a continuation of the present proliferation of energy agencies; the majority favored the union of FEA and ERDA into a new agency or the establishment of a new department including FEA, ERDA, most of Interior, and perhaps EPA and portions of other departments. The support for such a Department of Energy and Natural Resources was more evident in the workshop than it has been in much recent public discussion. William Warne conceives of DENR as an interim ("25-year") step toward the eventual creation of a mammoth Department of Civil Resources Management embracing but retaining DENR, Commerce, and Labor as separate departments, much as the Department of Defense embraces the separate services. Similarly, those who deem the early creation of a Department of Energy and Natural Resources inadvisable or impracticable may accept the formation of a more modest energy agency as a reasonable compromise or interim step.*

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* This was also the view of the Committee for Economic Development in its December 1974 report Achieving Energy Independence, which recommended the transfer of EPA to a department of energy and natural resources: "...the Council on Environmental Quality [should] be retained in the Executive Office of the President as an independent monitor of environmental impact..."

National Policy Formation and Coordination

The executive organization for formulating and coordinating energy policies is disorderly and inadequate or adequate only for formulating disorderly policies. Few will openly defend this situation except those who contend it is better than a tidy organization which produces consistent policies that can be disastrous. Thus Chauncey Starr states, "...we have only a primitive knowledge of the real role of energy in our society....legislative and administrative actions taken under these circumstances are apt to be at best superficial and palliative, and at worst may be dangerously destructive." However, the dispersion of power limits the damage even a powerful government executive can wreak. "...an energy 'czar' in government would not be given the tools and the full responsibility to perform, but would likely become at best an expediter, usually a coordinator, and at worst a bottleneck."

Does the nation have an energy policy? "It's a happening, not a policy." Or, it is a policy but "a bad one: to do nothing"; "to import regardless of price"; to provide "an abundance of clean, secure energy" with some attention to conservation. Evident conflicts exist between energy policies (such as attaining energy independence and depleting national fuel reserves or letting market forces operate freely and yet regulating their operation) and between energy and other public policies (such as increasing energy supply and improving the environment or raising energy prices to increase supply and yet fighting inflation). If a reduction of oil imports is a fair test of energy independence, that policy is failing.

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* That is the position, among others, of John Sawhill and the General Accounting Office. GAO has "proposed combining FEA's permanent energy policy responsibilities with ERDA's energy research and development policy responsibilities into a new National Energy Administration. The most critical need in solving the Nation's energy problems is to have a unified and concentrated effort for developing national energy policies, plans, and programs....this new agency can bring about this effort, and its creation is a logical first step toward the longer term creation of a Department of Energy and Natural Resources" (Monte Canfield, Jr.).

A clear organizational focus for energy policy formulation is now lacking. No single organization is shaping national policy for oil, for coal, or, since the Atomic Energy Commission was bifurcated, for nuclear power. "No one has an overview of any one fuel or of all the fuels," Mason Willrich remarks. FEA lacks "clout"; the Energy Resources Council lacks independent staff and, as a council of equals, has difficulty imposing consistent policies upon its members.

This situation can be improved by 1) assigning to a new energy agency or department responsibility for developing Executive energy policies, and by 2) strengthening ERC with independent staff and statutory authority, or replacing it with an Energy Policy Council in the Executive Office of the President. The council should monitor and coordinate all Executive programs and policies with major effects upon the supply and use of energy, and attempt to concert the nation's energy policies with its economic, social, environmental, foreign, and security policies.

Some see an energy unit as part of the Office of Management and Budget. James Akins believes that, if a Department of Energy and Natural Resources is established, no independent unit is needed and that existing bodies in the Executive Office of the President such as the National Security Council, the Economic Policy Board, and the Office of Management and Budget can undertake any government-wide policy responsibilities that a DENR Secretary cannot discharge. However, the predominant view is that energy affairs are sufficiently important and pervasive to merit the exclusive attention of a special independent Energy Council and staff in the Executive Office. It should take the lead in formulating and coordinating national policy for new and conventional fuels; give policy guidance to independent regulatory agencies; help to coordinate federal and state, domestic and foreign energy policy; and concert energy policy with other economic and social policy.

On Data Gathering and Policy Analysis

Many agencies are collecting data on energy and fuel supplies, demand, reserves, stocks, and prices, notably the Federal Energy Administration, ERDA, the Bureau of Mines, Geological Survey, Federal Trade Commission, and Federal Power Commission. As new energy functions are added, so are new data requirements and much duplication results; industry complaints about duplication "are largely valid." The government is said to operate "98 separate computerized data bases or major files...of energy-related data."* Denied access to industry data gathered by the Census, on grounds of confidentiality, FEA proposes to collect the same data independently; four agencies have conducted natural gas reserves studies, yet the data base of each is incompatible with the others.** On the whole, data on fuel production and exports are good; data on oil, gas, coal, and uranium resources are poorer. In one ten-day period, estimates of the oil reserves in the Atlantic Outer Continental Shelf dropped from 132 to 2-4 billion barrels. "The federal government knows next to nothing about the quality and types of coal that it owns." There is a limit to what can be learned from additional paper studies; to improve our knowledge of the nation's fuel reserves, direct investigation is needed: dip-stick verification of oil stocks; government field exploration for oil, gas, and uranium.

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* Improvement Still Needed in Federal Energy Data Collection, Analysis and Reporting, Report to the Congress by the Comptroller General of the United States, June 15, 1976, p. 22.

** Ibid., pp. 34-35.

Different projections of future national energy requirements have been issued by ERDA, FEA, and the Bureau of Mines and no effort has been made to rectify or explain the differences. Different data and forecasts lend weight to different policies and undermine public confidence in the reliability of each data series and the objectivity of their analysis. Rightly or wrongly, the credibility of FEA data continues to be questioned because of the agency's reliance on industry sources. The General Accounting Office can do "a mediocre job" and have credibility, Monte Canfield remarks; FEA cannot. The widespread suspicion of industry and government energy data has led to the assignment to GAO, in the 1975 Energy Policy and Conservation Act, of responsibility for verifying energy data submitted to federal agencies.

The dilemma of data collection and analysis is that, if they are to be relevant to policy issues--to inform and clarify public debate and promote rational policy decisions--they should be undertaken in close proximity to the agencies and officials responsible for energy policies. Yet that very closeness endangers their credibility, since it is assumed that data are collected, selected, and--especially--published to support the interests and policies of those who collect and analyze them. The solution recommended by the General Accounting Office and generally accepted by the workshop is to locate primary responsibility for energy data collection and analysis in a unit that is part of the FEA or whatever new energy agency or department may succeed it, and to protect the unit's independence and professional integrity by measures that would give it a status akin to that of the Census or the Bureau of Labor Statistics. Some measures suggested by the GAO[*] are:

- --Appointment of the director by the President for a term of 5 to 9 years and his confirmation by the Senate.
- --The director and deputy director should be professionally qualified and chosen on a merit basis.
- --The director should report directly to the administrator of FEA or its successor agency.
- --The independence of the agency should be stipulated by statute and its director authorized and instructed to testify directly before Congress.

George Eads advances a comparable proposal for an independent staff in the Executive Office of the President to analyze not only energy issues but a broad range of government-wide economic and resource questions."[**]

The credibility of industry data is also related to its confidentiality. Industry asks for confidentiality to protect itself from competitors and, no doubt, from adverse government action. However, a GAO report contends that "the terms confidential and proprietary...have been overused and...steps should be taken to restrict confidential data to the absolute minimum."[***] The good record of the Census in obtaining public and industry cooperation is founded in part upon its special legislative authority to maintain confidentiality, and some experts believe that similar authority is a key to obtaining reliable energy data from industry.

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[*] In a statement prepared for the workshop by Monte Canfield, Jr.

[**] "...one option I find intriguing involves the creation, either within or closely attached to OMB or the Council of Economic Advisers, of a small group of Senior Specialists who would serve the needs of all Executive Office agencies for advice on and evaluation of the current status and long-run prospects of key industries and other important segments of the economy, who would initiate and coordinate cross-agency and cross-industry analyses of the impact of current and proposed governmental actions..., and who would serve to bring emerging longer run problems to the attention of senior decision-makers."

[***] _Improvement Still Needed_..., p. 36.

The Relation of Public Regulation to Public Policy

Over 40 federal bodies exercise regulatory powers over the supply or use of energy. Although a recent Presidential commission noted "remarkably little duplication of statutory authority"* among them, the number, independence, and frequent inconsistency of their objectives and standards present serious obstacles to the implementation of consistent national energy policies. The regulatory scene is further complicated by the power of the states to regulate plant siting and safety, power transmission, utility prices, gasoline taxes, etc. (The role of the states will be discussed subsequently.)

Regulatory bodies tend to operate on an individual case basis, a "piecemeal approach...leading to inconsistent and incompatible decisions which could be counterproductive to national needs and priorities." As the number of agencies and interests involved in a particular case has increased, "regulation by consensus" has developed in which the regulatory body attempts to hear and to compromise the views of conflicting interests.

> What results are a group of decisions being made from the vantage point of each agency's own narrow perspective. While this may accommodate the desires of a particular interest group, it is merely myopic decision-making which often does not serve the broader "public interest". Indeed, unable to meet the demands of each group, some regulatory agencies take the extreme reverse position that no action is the best action (William Doub).

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* William Doub, citing a finding of the Presidential Study Commission on Federal Energy Regulation, which he chaired (cf. Federal Energy Regulation: An Organizational Study, April 1974, p. 11).

There are many forms of de facto regulation in addition to the formal type in which an order is made or a license issued after an extensive, formal hearing process. Administrative rule-making and compliance procedures, the rules accompanying government grants and contracts, rules setting forth health and safety standards and the inspection systems enforcing them can have the same force and effect as regulatory decrees. Thus, government regulation of the supply and use of energy is widespread and growing. The extent to which it should grow and the degree to which extensive and often inconsistent regulation can prove effective is much debated.

Chauncey Starr cites government regulation of the energy industry as laying the basis of bad management, since regulatory agencies constrain the operations of industry without being responsible or accountable for the effects of their constraint upon the industry's subsequent performance. He suggests that regulation should concentrate mainly on "the large and obviously undesirable effects" of energy plants on the public health and safety and that excessive attention has been devoted to "marginal and hypothetically-projected" dangers. Harold Finger asks the government to let the free market work: but also recognizes the need for government intervention in that market to provide financial incentives to stimulate greater energy supply, to restrain or equalize the competition of foreign firms subsidized by their governments, and in the interests of social equity.

William Doub offers several administrative suggestions to speed up and improve the cumbersome and protracted process by which federal and state agencies now make decisions governing the siting, planning, construction, and operation of energy facilities. These include the creation of an office to coordinate and schedule the licensing functions of federal and, if possible, state agencies; and the exchange and standardization of data among regulatory agencies, to be facilitated by a central energy data organization such as the GAO has proposed.

However, the fundamental problem posed by regulatory agencies is not that of reconciling their schedules and data, but of reconciling their independence of judgment with the government's energy policies. Regulation is a fourth branch of government that occupies a politically awkward position betwixt and between the three principal independent branches. "Every Executive report on reorganization from that of the Brownlow Commission of 1937 to the Ash Council of 1970 has severely criticized the independent commissions."* That is understandable, because independent judgment is necessary to even-handed justice, and yet observance of designated governmental policy is necessary to effective administration.

The workshop grappled with this problem but did not resolve it. The general opinion was that there is too much regulation and the scope of regulation should be narrowed.** The growth of regulation often represents a temporizing measure, a failure of the Congress to make up its collective mind and to legislate public policy clearly. "...the independent regulatory commission was an expression of the Congress saying, 'We would have legislated if we had the time, but we didn't'", Charles Bingman observes. Unfortunately, there is no agreement on what functions are "truly" regulatory and thus require independent adjudication. William Doub suggests that the main emphasis in the last 20 years, exemplified by the Nuclear Regulatory Commission and the Environmental Protection Agency, has been upon the regulation of new technology to protect the public health and safety and that much economic regulation in the energy arena can and should be absorbed into the normal process of Executive policy-making and administration. However, economic regulation--the adjudication of the prices and profits of monopolistic public utilities and services--remains the philosophical basis of much government regulation and even heavily technological regulation retains a strong economic element, since varying degrees of technological safety or reliability cost varying amounts of money.

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* Federal Energy Organization, A Staff Analysis, Committee on Interior and Insular Affairs, United States Senate, 1973, p. 23. (Actually, it was the Brownlow Committee or The President's Committee on Administrative Management, chaired by Louis Brownlow.)

** William Johnson describes "the regulatory morass that the FEA has now become....On January 2, 1974 the government first published 27 pages of allocation regulations for comment in the Federal Register. By January 1976 it had published over 5,000 additional pages....The Commerce Clearing House tabulation of the FEA's regulations...is now a three volume compendium, seven inches thick, of turgid, legalistic prose unintelligible even to many of the FEA officials who must administer the controls. The Commerce Clearing House has also published two additional volumes containing decisions by FEA's Office of Exceptions and Appeals. Most recent regulations are intended to plug loopholes and modify or otherwise correct errors in earlier regulations" ("Why U.S. Energy Policy Has Failed," op. cit.).

Whatever may be the proper definition and scope of the regulatory function, it should be segregated from policy promotion to ensure the integrity of regulatory actions. For this reason, the regulation of nuclear plants and materials was separated from that of promoting their development, and the General Accounting Office recommends that the regulatory functions of FEA be separated from its policy functions and assigned to a new independent agency or to the Federal Power Commission. The eventual affiliation of two or more regulatory bodies--FPC, NRC, and the regulatory functions of FEA are most frequently cited--into a federated energy regulatory agency can also be envisaged.*

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* "In the [1974] Energy Reorganization Act, Congress invites the President to submit further recommendations concerning energy organization, including the option of 'consolidation in whole or part of regulatory functions concerning energy.' We are convinced that national regulatory policies would benefit from the perspective provided by a comprehensive agency embracing all energy forms in a single, unified structure" (Achieving Energy Independence, Committee for Economic Development, December 1974, p. 61)

How can energy regulation be both insulated from and yet influenced by national energy policies? William Doub suggests that a National Energy Council (designated earlier in this summary as "an Energy Policy Council in the Executive Office of the President") give policy guidance openly.

> Conveying policy guidance openly might include the submission of position papers on the formal record or appearances by the National Energy Council at public hearings. Policy information would not substitute for every regulator's obligation to consider each case on its merits, and whenever policy guidance was linked to a specific case or rule-making proceeding, the guidance would have to relate exclusively to effects on national energy objectives. With these ground rules, the result should not be a less independent regulatory process but a better informed one--with an enhancement of public understanding.

Mason Willrich futher suggests that regulatory agencies, particularly the Nuclear Regulatory Commission and the Federal Power Commission, be confined to domestic regulation and be governed by Presidential policy in foreign affairs such as the export of fuels and nuclear materials.

Concerting Federal and State Policy

State and local governments can facilitate or obstruct federal energy policies and programs, and there is much recent evidence of obstruction due to the failure to concert federal and state policies and powers. As Senator Percy observes, there are no federal police to enforce the federal law setting a 55 mile per hour speed limit--"the one mandatory law that we were able to pass ever since the oil embargo"--and state enforcement is often weak or nonexistent. William Warne finds state and local energy officials "increasingly resentful and suspicious of federal agency collaboration. The federal agencies...are accused of cooperating only on their own terms.... Initiatives in California have indicated...that many millions of voters are even more suspicious of big brother in Washington than are the state and local governments." Federal agencies may have the final authority to license nuclear facilities or to issue leases for coal mines on federal land and oil drilling on the Outer Continental Shelf, but states can delay or stop the operation, as the imposition by the state of a heavy use tax led to the closing of a nuclear waste burial site in Kentucky.

Opposition to energy plants can stem from their noxious character, producing what Charles Hitch terms "the 'not in my backyard' syndrome." Or, it can reflect a concern about the financial impact of major facilities upon taxpayers and governments, which must build roads, schools, and playgrounds and provide police, fire, and other services for the influx of workers and their families. The National Governors' Conference has accepted as policy that states should neither lose nor gain financially from the impact of new energy facilities: enough lead time should be allowed for the necessary public construction and the federal government should advance any sums needed for capital and cash flow purposes.

Greater recognition of state interests and powers, greater coordination of federal and state plans and policies, and the fuller participation of state representatives in the development of federal policies is plainly needed. Though many state governments lack adequate energy staffs, others, like California and New York, have exercised leadership in certain technical areas (e.g., dam inspection) and those with major universities and energy laboratories have ready access to expert advice. Lynn Brooks cites the participation of state representatives in the Energy Resources Council's development of coal policy and Interior's development of policy for the Northeast Outer Continental Shelf as examples which should (and the Nuclear Regulatory Commission, which "wants to exclude the states," as an example which should not) be emulated by other federal agencies. According to one authority, ERDA appears to be developing a good cooperative approach toward the states, while FEA "leaves a lot to be desired."

The Federal Energy Regulation Study Team recommended

> ...that information exchanges and policy decisions take place regularly between two new groups that would represent the Federal and state levels respectively in all matters related to energy. The first would be a Federal office devoted exclusively to interchanges with the states and localities; the second would be a permanent representative body consisting of state-designated officials, who should be of sufficient stature to reflect promptly and accurately the policies and intentions of their governments (William Doub).

Informed decisions on the Alaska pipeline or Western oil shales cannot all be taken in Washington and, as one state spokesman notes, "The Governors cannot run to Washington for everything." Federal regional offices with real authority would afford a good compromise between the concentration of decision-making in Washington and individual negotiations with 50 states, providing convenient sites where state and federal agencies can work out policies adapted to the needs of each region. The Ford Energy Project also recommended the development of regional energy planning* (and one Project study recommended that state regulatory commissions be replaced by a federally chartered regional regulatory agency).

The Congress

Fifteen of 18 committees and 33 subcommittees of the Senate have jurisdiction over energy affairs; a similar situation exists in the House, which rejected a 1974 recommendation of the Bolling Committee that responsibility for legislation on the environment and energy conservation, regulation, and power administration be concentrated in one committee. The 1,001 energy bills that were introduced in 1974 were referred to over 35 committees and subcommittees. "The president's omnibus energy program was split up and referred to four different committees in the House and nine in the Senate."*

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* "...planning at the state level is very limited. The states of Montana, Wyoming and North Dakota are dotted with proposed projects on the drawing boards of dozens of companies...Some plans would export coal from the region, some would burn it there for electricity, others would convert it to gas or liquids. Still others would do nothing with it for some time, but hold it to speculate on its increasing value....

"No mechanism exists at the federal level to comprehensively examine regional problems....The energy planning that does take place is highly fragmented. It is usually done by local offices of federal agencies, or by state agencies which have limited ability to enforce their decisions on federally owned resource areas" (A Time To Choose, Energy Policy Project of the Ford Foundation, Ballinger, Cambridge, 1974, p. 284).

This situation leads some observers to despair of attaining any rationality or consistency in national energy policies and programs; the value of any Executive energy reorganization will, they believe, be diminished until the Congress rationalizes and simplifies its committee structure. Others are more hopeful. "The Congress is a collegial body...and usually disposes rather than proposes," Alan Dean observes. So long as the Executive knows what it wants, the fractionation of committee authority is no overwhelming obstacle to obtaining it. "Energy" is, in any event, an all-pervasive subject that can no more be assigned to a single committee than to a single Executive department. That has not stopped energy legislation. In fact, "there has been an amazing legislative response to a whole range of energy issues...[due] in part to the President's initiative, but a good deal on their own initiative" (Charles Bingman).

Senator Percy points to the organization of Congress and the Executive to handle the space program as an indication that the government can organize to do some things

> extraordinarily well....It is straightforward. It is relatively simple, and the way we organized at the federal level and interrelated the private sector in establishing a goal and setting out to accomplish it really is a miracle of organization and accomplishment and a national will backed up by a national sense of purpose and a clearly enunciated policy.

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* Andrew S. Carron, "Congress and Energy," Policy Analysis, Spring 1976, p. 292.

Granted, energy policy is a more complicated matter than a moon landing but some improvement in energy organization should be possible, in the Congress as well as the Executive. The Congress responded to the creation of the Office of Management and Budget with the introduction of its new budgetary system--"and it is working remarkably well"; it may respond in similar fashion to a reorganization of Executive energy affairs.

Staff agencies that serve the entire Congress can help to provide common information and analyses to all committees, and thereby to overcome the splintering effects of multiple committees. But these agencies have themselves multiplied and, together with committee staffs, have grown so greatly as to constitute a growing bureaucracy of their own. The General Accounting Office now has a budget of $140 million and a staff of 5,000; the Congressional Research Service has a staff of 750; the Congressional Budget Office and the Office of Technology Assessment, staffs of about 185 and 95, respectively.* In addition, perhaps 5,000 of the 17,000 persons on the staffs of individual Congressmen and Congressional committees are engaged in legislative and policy work (as against service to constituents). "Congress should be aware... that it is establishing a system of bureaucracies in the legislative branch, and that these bureaucracies will have all the same bureaucratic problems that the executive agencies have and...they don't have the same policing supervision that the Congress gives the Executive agencies" (William Warne).

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* See "A Look at the 19,467 People Who Keep Congress Running," National Journal, July 10, 1976, pp. 960-1.

The growth of Congressional staff in the last seven years, Alan Dean suggests, is at least partly a consequence of the division in party control of the Executive and the Congress, of "rather tremendous Congressional majorities...aligned against the President," and "mistrust between the Executive and Legislative branch..." Congressional mistrust was aggravated by the anonymity and unaccountability of Presidential aides and the massive Presidential impoundment of Congressional appropriations. Staff growth may abate when one party gains control of both branches and a good working relation is restored between them.

A reorganization of Congressional committees to parallel the reorganization of the Executive is necessary, Chester Cooper insists, if energy reorganization is to work. "If...Seamans has to talk to 37 parts of of Congress, how many hunks of Congress would the new secretary of this new department...have to report to...?" "...no more than he started with," is the reply. Under the best of circumstances, any agency head has to deal with at least three or four committees in each house. "It is never going to get down to one, it is always going to be a minimum of eight." One voice was raised for a joint committee on energy, natural resources, and the environment, and a second voice for a select committee on energy in each new Congress; but most participants seemed to expect the Congress and the country to go on with only a moderate concentration of Congressional energy authority, if any.

Appendix:

Three Basic Legislative Alternatives

Three immediate alternatives for the organization of Executive energy functions may be summarily identified:

1. High Decentralization: The Status Quo

A continuation of current programs and functions among existing agencies: extension of FEA with its limited powers; ERDA; the natural resource agencies in the Department of Interior; the independent regulatory functions of the Federal Power Commission, the Nuclear Regulatory Commission, and FEA; and the coordinative functions of the Energy Resources Council. Additional decentralization could be achieved by dividing ERDA into three independent agencies devoted to nuclear energy, fossil fuel, and advanced technical systems; an independent agency to promote energy conservation might be established; and the regulatory functions of FEA could be assigned to a new independent agency.

2. Moderate Centralization: A National Energy Organization

The scope of a moderately centralized energy organization has been outlined by the General Accounting Office. It would consist of ERDA; the non-regulatory functions of FEA; a data gathering agency with special statutory powers and independence, whose head would report directly to the Congress; and an agency to finance major new energy supply and conservation undertakings. An energy conservation authority might also be included. A staff in the administrator's office would help to formulate and coordinate policies within the agency and to assist a strengthened Energy Policy Council in the Executive Office of the President, which would replace the present Energy Resources Council. The new Council would have a staff of its own and primary responsibility for developing and coordinating federal-state and government-wide energy policies and for reconciling them with domestic and foreign policies.

3. Major Centralization: A Department of Energy and Natural Resources

A Department of Energy and Natural Resources would incorporate all of the agencies and functions noted in paragraph 2, as well as most of the present Department of Interior and possibly the Environmental Protection Agency. An effort would also be made to narrow the regulatory functions of FPC and NRC and to attach the excised administrative functions to the Department. The central regulatory functions of FPC, NRC, and FEA might be regrouped into a federated energy regulatory agency which would receive open policy guidance from the Energy Policy Council in the Executive Office of the President. The other functions of the Council would be similar to those noted in 2. As a member of the cabinet, the DENR Secretary would have more power and authority than the administrator of the moderately centralized National Energy Organization; hence, the strong central policy staff attached to his office, working closely with the Energy Policy Council, would play an important role in the formulation and coordination of government-wide energy policies.

III. GOVERNMENT ORGANIZATION FOR ENERGY AFFAIRS

Statements submitted to a
June 22-23, 1976 Workshop in the
Whittall Pavilion of the Library of Congress

Arranged by the
National Academy of Public Administration Foundation
for the Congressional Research Service
in response to a request by
Senator Charles Percy of the
Senate Committee on Government Operations

National Academy of Public Administration Foundation
July 1976

OPENING REMARKS

Senator Charles H. Percy

Workshop on Government Organization for Energy Affairs

Tuesday, June 22, 1976

I am delighted to be here to open this 2-day workshop on government organization for energy affairs. As you know, this has been arranged at my request by the National Academy of Public Administration and the Congressional Research Service.

This workshop is being held on a timely topic. The events of the past several years have made clear that there are fundamental flaws in the way essential tasks are divided among the many organizations and agencies responsible for some facet of energy affairs. It is time that these flaws be addressed and the present interim arrangements replaced with a longer-lasting and more effective organizational structure.

I would like to share with you my own thoughts on what those faults are.

I would also like to lay out a number of fairly simple but, I think, basic organizing concepts which I hope you will take into consideration and examine critically as you discuss the important energy issues which are on today's agenda.

I. SOME MAJOR SHORTCOMINGS

Some of the basic faults in the existing energy structure in the executive branch are these:

(1) There is no satisfactory mechanism for authoritative, high-level definition of energy policy and goals, or for providing policy guidance to operating and regulating agencies concerned with energy affairs. The Energy Resources Council is simply a co-ordinating body which has no staff and therefore does not adequately meet the need for goal and policy definition.

(2) Federal energy regulatory agencies operate autonomously within narrow task-oriented perspectives specified in their statutes. The result is that, although there is surprisingly little overlap of regulatory authority, in practice their regulations may serve contradictory and conflicting ends. An example is the price controls on natural gas. This type of situation is fostered by the lack of a Federal mechanism to formulate energy policy goals and priorities which can serve as the basis for program guidance, and by the lack of a satisfactory co-ordinating and review authority.

(3) Similarly, Federal agencies with operating energy programs (as contrasted with regulation) often work at cross purposes in the absence of a mechanism for policy guidance and regular program review. An example is the Department of Interior's coal leasing moratorium when announced policy was to increase reliance on coal.

(4) Energy data collection, analysis and dissemination

is fragmented, outdated, overlapping, incomplete, and often contradictory. Furthermore, these tasks are being carried out in intellectual isolation from the collection and analysis of other economic and social data reflecting domestic and international developments with which energy has a close relationship.

(5) State and local governments have a great impact on energy facility siting and licensing, as well as on other energy policies and programs, but their activities are not integrated and coordinated with Federal energy activities.

(6) Energy goals and objectives are not systematically integrated with other high priority national goals, objectives, and programs. A conspicuous example is the conservation of energy, which tends to be treated as an overlooked postscript in agency budgets and operating programs.

(7) The vital task of energy research, development and demonstration (R,D and D) efforts has been separated from the market in which the results of these efforts will be applied. Consequently, researchers tend to select targets of technical opportunity and technical approaches which do not completely meet the needs of the users of new technology. I am well aware that collecting all energy R,D and D under the single roof of the Energy Research and Development Administration along with a very large financial transfusion was intended to jolt the efforts of federal energy

R,D and D into increased effectiveness. I ask you to consider carefully, however, whether this act represented the severing of a vital artery.

Each of these deficiencies can be related to some organizational weakness. In almost every case, the fault can be traced to a failure to re-examine the traditional organizational missions of established departments and agencies, and to assign to each the appropriate task. In addition, there has been a failure to recognize that we need to take a much closer look at the pervasive influence of energy on our economy.

II. ENERGY'S SPECIAL ROLE

Energy is so essential to our economic and social structure that changes in its management affect the whole nation. To a greater degree than for most other economic activities, the authority to control its development, distribution or use is tantamount to the political power to govern.

Federal energy organization must, therefore, consider safeguards against deliberate or unwitting accumulation of economic power in the federal establishment. This must be done without sacrificing efficiency, flexibility or effectiveness.

III. SOME ORGANIZING CONCEPTS

I suggest that any federal energy reorganization which builds on the following organizing concepts could ensure that responsibility for energy functions is placed in the appropriate hands. The following principles would combine not only an organizationally sound disposition of duties, but would also build in the needed safequards mentioned earlier.

(1) Organizationally discrete energy functions

So far as possible, four major energy functions regularly carried out during non-emergency situations should be kept institutionally separate. I do not mean to imply that new agencies need to be set up to house each of these functions. Existing agencies could be used. The four functions are:

- --Energy policy generation and review
- --Energy data collection and analysis
- --Energy regulation
- --Operating programs, including those which deal with energy supply and use.

By far, the largest of these functions is the last. Since the category includes the applied research, development and demonstration (R,D and D) of energy supply technologies, it is fairly similar to what in the past we have called a Department of Energy and Natural Resources (DENR).

I believe the vital function of research, development and demonstration ought to be carried out within, or at least under the authority of, the organization or department which deals with the market in which the results will be applied. Such an arrangement would facilitate the commercialization of new technologies.

(2) Conservation of Energy

Far from being a function which ought to be organizationally discrete, conservation of energy -- as both a goal and an activity -- ought to be ubiquitous, being practiced wherever energy is used. Accordingly, conservation of energy during non-emergency situations ought to be administratively integrated within every organized Federal entity, whether or not involved in energy.

(3) Energy Emergencies

An energy emergency -- whether from natural causes or man-made -- is by definition an event which in the past has virtually always required violation of the organizational separation of the key functions listed above.

During wars, as during the recent energy shortages, the consequence has been to concentrate both the policy-making decisions and the authority to exercise additional energy action programs.

As noted earlier, the pervasive power in the government accruing to any exercise of energy control ought to be kept in check wherever possible. A third organizing concept, therefore, could be to provide within the regular Departments of government sufficient administrative flexibility and readiness to activate such standby authorities as needed, without requiring creation of new agencies. Existing agencies should be made strong enough to withstand the popular tendency to create new agencies to meet new crises.

IV. THE CONTRIBUTION OF THE WORKSHOP

In suggesting these concepts, I do not mean to imply that they are the only organizing ideas we should examine or that there is only one reorganized federal energy configuration that would see them realized.

I do feel, however, that it is essential that we consider here not just what energy functions need to be performed, or how the federal government can best be organized to carry them out, but also why we believe a different structure can better serve the public. Once we understand -- and can agree -- why we need to change, it should be somewhat easier to discover and decide on how and where and when the necessary changes should be made.

I look forward to the contribution that this workshop will make towards solving these energy problems dealing with policy and programs.

Let me just say in closing that the workshop participants have a very comprehensive agenda and a very limited time within which to cover it. In the interest of providing them the greatest possible flexibility and to facilitate a candid exchange of ideas, I understand that attendance at the actual workshop sessions will be limited solely to those invited by the National Academy of Public Administration. I do not wish the results of this workshop to be confidential, however, and shall personally take the necessary steps to assure that the full proceedings of the workshop and the National Academy of Public Administration summary of it are made public as soon as it is physically possible.

I would be happy to answer any questions now.

IMPROVING FEDERAL ENERGY ORGANIZATION

Presented by Monte Canfield, Jr.
Director, Energy and Minerals Division
U.S. General Accounting Office

Before

Workshop on Government Organization for Energy Affairs
Washington, D.C.
June 23, 1976

The letter inviting me to this workshop asked that I briefly address three broad questions relating to weaknesses in government organization and arrangements for formulating and administering national goals, as well as one or more subsidiary questions.

Essentially, we believe many of the problems in formulating a coherent national energy policy stem from the diffusion of responsibility for major energy programs among several Federal agencies. For example, the Energy Research and Development Administration is responsible for research, development, and demonstration of energy technologies, the Federal Energy Administration for energy policy formulation, and the Department of the Interior for decisions regarding the leasing and development of the energy resources on Federal lands. There are two national energy planning systems: ERDA's which produced the ERDA-48 national plan for research, development and demonstration, and FEA's, which produced the original Project Independence report and the more recent National Energy Outlook. Moreover, collection and analysis of energy data is done by numerous agencies.

My observations today will focus on

--the broader question of Federal energy organization and steps GAO believes should be taken to improve the Federal Government's approach to energy problems

--the more specific problem of how the organization of the Government's energy data activities can be strenthened.

Both these issues have been of interest to GAO for some time, and over the past two years we have testified before the Congress on these matters on numerous occasions.

This past April we testified before the Senate Government Operations Committee regarding the extension of FEA. Since FEA is scheduled to expire on June 30, 1976, we suggested a temporary extension of FEA's authorities. We stated however, that the best long-term organizational approach to the solution of energy problems would be to establish a Department of Energy and Natural Resources (DENR). In the past we have consistently supported the creation of a DENR, consisting initially of three key entitites-the Department of the Interior, the Federal Energy Administration, and the Energy Research and Development Administration. The President would be directed to propose additional organization changes he deemed necessary to further consolidate energy activities.

Pending the establishment of a full DENR, however, we suggested some organizational changes be made in the Executive Branch which begin to move in the direction of creating such a department. The changes involve combining all energy policy activities into a single new agency apart from energy regulation.

FEA currently has responsibilities for both energy policy development and energy regulation. A desirable division of FEA's responsibilities would be to separate FEA's policy, planning, and program development activities from its regulatory activities, combining the two functions with related functions of other energy agencies. The problems inherent in having a single agency responsible for policy and regulatory programs were recognized by the Congress in the old Atomic Energy Commission which was reorganized into the Energy Research and Development Administration (ERDA) and the Nuclear Regulatory Commission.

The drawbacks of such a combination have again been demonstrated by FEA. For example, last fall, during debate over the extension of oil price controls, FEA was the chief administration spokesman in favor of phasing out such controls while at the same time having responsibility for administering the oil price control program--a situation not conducive to the most vigorous enforcement policy.

We proposed combining FEA's permanent energy policy responsibilities with ERDA's energy research and development policy responsibilities into a new NATIONAL ENERGY ADMINISTRATION. The most critical need in solving the Nation's energy problems is to have a unified and concentrated effort for developing national energy policies, plans, and programs. We stated our belief that this new agency can bring about this effort, and its creation is a logical first step toward the longer term creation of a Department of Energy and Natural Resources.

In addition, there is now proposed another new Federal organization--the Energy Independence Authority (EIA)--which would help finance and encourage the commercialization of a variety of more advanced energy technologies such as synthetic fuels.

If created with financial assets of $100 billion, EIA would inevitably become a major factor in energy policy development. Its relationship to ERDA and FEA is unclear. ERDA, for example, has authority, and is now seeking funds to assist industry in financing demonstration projects in synthetic fuels. The concept embodied in the EIA Act currently before the Congress should also be included in the NATIONAL ENERGY ADMINISTRATION. Such an agency could then exercise control and coordination of four basic energy policy components: (1) policy formulation, presently in FEA, (2) allocation of research, development, and demonstration funds, currently in ERDA (3) allocation of commercial financing monies or guarantees, currently proposed for EIA, and (4) energy data collection and dissemination, which I will discuss in more detail in a couple of minutes.

We also believe that such a consolidation could have a significant benefit for energy conservation--an area where in our view, there have been problems of priorities and lack of coordination. FEA has not given conservation the emphasis we believe it deserves; ERDA, until recently has not emphasized it in allocating funds for research and development, and the proposed

Energy Independence Authority could actually hamper rather than simply fail to promote conservation efforts, since it could siphon off available capital from conservation programs to those which increase energy supply.

The creation of NATIONAL ENERGY ADMINISTRATION and later a DENR could go far toward improving the Government's fragmented approach toward conservation as well as other energy policy issues.

On the regulatory side, and in conjunction with the proposal to combine FEA's and ERDA's policy responsibilities into a new agency, we proposed a consolidation of Federal energy regulatory responsibilities. There are several ways to accomplish this. Perhaps the simplest would be to initially transfer FEA's residual regulatory responsibilities to the Federal Power Commission (FPC). An alternative would be to create a new Energy Regulatory Agency composed initially of FEA's residual regulatory responsibilities. Eventually, other Federal energy regulatory responsibilities, such as those of the Nuclear Regulatory Commission, would also be incorporated into a single agency. We believe it desirable to have energy regulatory functions in an agency having energy responsibility, rather than transfer them to an agency with no energy responsibility. This would ensure that the energy functions received proper priority within the agency.

Neither of our proposals would preclude the continuation of the existing Energy Resources Council. We suggested that the

Congress consider providing the Council with a statutory basis. This, in our view, would not substitute, however, for a DENR, rather it should serve as a mechanism for coordinating Federal energy activities.

I would now like to move on to a brief discussion of one of the subsidiary problems facing this workshop--how the organization of the Government's energy data activities can be strengthened. Over two years ago, GAO testified before the Senate Interior Committee on a study done at the request of the Chairman of that Committee which described Federal energy data efforts and identified and discussed problem areas which needed addressing if the Federal Government's capability for collecting and analyzing energy data was to be improved. Because the adequacy of Federal energy data continues to be a controversial subject, GAO updated its earlier report and presented the results at hearings once again before the Senate Interior Committee this past March.

We pointed out that many basic problems of energy data continue to persist. New energy data collection efforts for the most part have been piled on top of old efforts, and efforts for improved coordination have yet to show much success. We concluded that the establishment of a Department of Energy and Natural Resources with an independent data collection component insulated from policy analysis and formulation offers the best long-term organizational solution to energy problems, including energy data problems. In the interim, we suggested that, with with proper legislative safeguards, FEA, or whatever agency should assume its responsibilities, could be strenthened to make it a more credible and objective focal point for Federal energy data efforts. A list of suggested actions to insulate energy data collection and analysis from policy analysis and development is included as an attachment to this statement.

Questions still could be raised regarding FEA's ability to establish itself as a credible source of objective energy data in view of its responsibility for energy policy analysis and development. FEA's problem, however, is similar to the problem which would have to be faced if a Department of Energy and Natural Resources were created. As with that department, the Congress could enact explicit statutory provisions to ensure the necessary independence of the data unit.

I would like to add that because of the concern of the Congress over the accuracy and credibility of energy data, the Energy Policy and Conservation Act (P.L. 94-163) gave GAO new responsibilities in the energy data area. Specifically, Title V of that Act authorizes us to independently verify energy data and we are currently involved in efforts related to this new responsibility. The enactment of the EPCA and increased Federal involvement in solving the nation's energy problems has prompted my own organization to reexamine its approach toward investigating energy problems. As a result we recently consolidated the energy work being performed by several GAO divisions into a new Energy and Minerals Division, which I head.

In closing, I would like to briefly mention a job we have underway which is directly related to the subject of this workshop. Senator Percy, in addition to providing the impetus for organizing this workshop, together with Senator Ribicoff, has asked GAO to assist the Senate Government Operations Committee in relating current energy policy decision-making and national energy goals. Specifically, he is interested in the consistency of current decisions in contributing to achieving longer-term goals, along with any gaps that can be identified in the decision-making process. We have been requested, where possible, to determine if any gaps we identify are related to flaws in the current energy organizational setup.

I can only hope that such Congressional interest in this problem can be translated into constructive changes in the Government's organizational approach toward solving energy problems.

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SUGGESTED ACTIONS TO INSULATE ENERGY DATA COLLECTION AND ANALYSIS FROM POLICY ANALYSIS AND DEVELOPMENT

--Give the head of the data agency (who would be appointed by the President and confirmed by the Senate) a specified term of office. The term of office should be at least 5 years or possibly 9 years so that it would exceed the Presidential term of office.

--Give the deputy head of the data agency the same term of office as the head of the data agency.

--Establish the data component as a professional agency by requiring that the head of such component, and his deputy, be professionally qualified, be a person of competency in the energy area, and be chosen on a merit basis.

--Require that the head of the data agency report directly to the head of the agency in which the data agency is located.

--Do not provide the data agency with any regulatory or policy functions.

--Stipulate by specific legislative provisions the responsibilities of the energy data agency emphasizing its independence, objectivity, and credibility as a source of energy data. In this regard, provide through legislative history the intent of the Congress that the head of the data agency independently speak to all matters relative to energy data, including testimony before the Congress.

--Provide for close congressional monitoring and oversight of the data agency's activities, including calling for the exercise of GAO's new responsibilities under the Energy Policy and Conservation Act to verify energy data.

REMARKS BY WILLIAM O. DOUB*
BEFORE "A WORKSHOP ON GOVERNMENT ORGANIZATION FOR ENERGY AFFAIRS"

Arranged by the National Academy
of Public Administration for the Congressional
Research Service, at the Library of Congress
Washington, D.C. June 23, 1976

REGULATORY REFORM

In the United States, there seems to be a preoccupation with reform of both taxes and administrative agencies. Perhaps my experience has made me a bit of a cynic; but whenever I hear proselytizers for either reform, that French aphorism leaps to mind -- "The more things change, the more they remain the same." No matter what reform takes place, people will continue to pay taxes, to be regulated -- and to advocate reform.

Although often cynical, I do believe that the Federal regulatory agencies have a necessary and vital part to play in our governmental scheme. I think we have a reasonably sound Federal regulatory system. By "sound" I mean

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THAT IT WORKS, BUT ALSO THAT IT CAN BE IMPROVED TO WORK MORE EFFECTIVELY. I BELIEVE, HOWEVER, THAT THE ULTIMATE SUCCESS OF OUR FEDERAL REGULATORY SYSTEM DEPENDS ON THE ACCURACY OF THE PUBLIC PERCEPTION OF THE PURPOSES AND GOALS OF THE INDIVIDUAL AGENCIES. THAT PUBLIC PERCEPTION, OF COURSE, REFLECTS THE SUCCESS, COMPETENCE AND VITALITY OF THE REGULATORY "PROCESS" ITSELF.

I HAVE BEEN A MEMBER OF A FEDERAL REGULATORY AGENCY, CHAIRMAN OF A STATE PUBLIC SERVICE COMMISSION AND VICE-CHAIRMAN OF AN INTERSTATE REGULATORY AGENCY -- AS WELL AS AN ATTORNEY IN PRIVATE PRACTICE. BASED ON THAT EXPERIENCE I HAVE CONCLUDED THAT THE MOST MISUNDERSTOOD ASPECT OF REGULATION IS THE PHILOSOPHY BEHIND IT AND THAT MISUNDERSTANDING IS OFTEN AT THE ROOT OF CRITICISM OF THE FEDERAL REGULATORY SYSTEM.

UNCERTAINTY, DELAY, CONTRADICTION AND DUPLICATION TOO OFTEN HAVE BEEN THE HALLMARKS OF THE REGULATORY SYSTEM. WHEN COUPLED WITH RISING CONSUMER PRICES AND ENVIRONMENTAL CONCERNS, THESE PATTERNS RESULT IN PUBLIC APPREHENSION AND FURTHER CRY FOR CHANGE. CURRENT CRITICISM OF THE FAILURE OF ADMINISTRATIVE AGENCIES TO SERVE THE PUBLIC INTEREST -- OR AT LEAST THE CRITICS' VERSION OF THE PUBLIC INTEREST -- IS EXACERBATED BY THE RECENT TENSIONS WHICH HAVE RACKED OUR GOVERNMENT OVER THE PAST FEW YEARS. THE PREEMINENT MANIFESTATION OF ALL OF THESE FACTORS IS A GENERAL LOSS OF

CONFIDENCE IN GOVERNMENT INSTITUTIONS AND PUBLIC SERVANTS. GIVEN THE PRESENT POLITICAL CLIMATE AND LACK OF PUBLIC CONFIDENCE, REGULATORY REFORM MUST FOCUS AT LEAST INITIALLY ON THIS LOSS OF CONFIDENCE IN GOVERNMENTAL INSTITUTIONS. BEFORE PROGRESS ON THE REAL, SUBSTANTIVE ISSUES CAN BE MADE, PUBLIC CONFIDENCE MUST BE ESTABLISHED.

THE EFFECTS OF THE REGULATORY PROCESS ON THE AVERAGE PERSON ARE PERVASIVE. FOR EXAMPLE, FEDERAL AGENCIES REGULATE IN WHOLE OR IN PART THE FOLLOWING ITEMS: AIR AND WATER POLLUTION, ELECTRICITY, GAS, TELEPHONE AND OTHER UTILITY SERVICES; RATES, SCHEDULES AND SERVICES OF COMMON CARRIERS; RADIO AND TELEVISION BROADCASTING; FOOD PURITY; UNFAIR OR DECEPTIVE ADVERTISING; AND UNFAIR LABOR PRACTICES. THE PRESIDENTIAL STUDY COMMISSION ON FEDERAL ENERGY REGULATION, AN INTERAGENCY STUDY TEAM OF WHICH I WAS CHAIRMAN, DISCOVERED THAT MORE THAN 40 FEDERAL AGENCIES, BUREAUS AND COMMISSIONS PARTICIPATED IN MAKING REGULATORY DECISIONS ON ENERGY MATTERS. ALTHOUGH THE STUDY REVEALED REMARKABLY LITTLE DUPLICATION OF STATUTORY AUTHORITY AMONG THOSE DIVERSE REGULATORY GROUPS, THE KALEIDOSCOPIC VIEW THEY PRESENT IS CONFUSING, DISARMING AND FRUSTRATING.

UNFORTUNATELY, THESE 40 AGENCIES DO NOT ALWAYS WORK TOGETHER. REGULATORY AGENCIES GENERALLY PROCEED ON A CASE-BY-CASE BASIS. CONSIDERATION OF INDIVIDUAL REQUESTS FOR LICENSES, LEASES, RATES, OR OTHER SPECIFIC ACTIONS RELIES HEAVILY ON PRECEDENT. THIS APPROACH OFTEN FOCUSES ATTENTION on a specific problem oftentimes institutionalizing inflexibility and ignoring changing national objectives. This type of regulation results in fragmentation rather than organization. It relies on the piecemeal appraoch to decision-making, leading to inconsistent and incompatible decisions which could be counterproductive to national needs and priorities.

In order to counteract inconsistency, the trend has been to develop "regulation by consensus". This approach is to reconcile competing goals of various agencies prior to agency action. The approach has been nurtured by legislative and judicial determinations which have increased both the number of regulatory agencies involved in a particular case or project and the number of factors that a major or lead agency must consider in making its decision.

The National Environmental Policy Act or NEPA has encouraged the concept of "regulation by consensus". NEPA requires an environmental impact statement to be prepared by the responsible agency and to be circulated to other Federal agencies for comment. NEPA has been considered primarily a procedural statute and thus satisfied if a Federal agency has fully and in good faith conducted the required environmental analysis. Most agencies, however, are hesitant to santion an activity which another agency such as EPA or the Council on Environmental Quality has suggested might be environmentally questionable. When commenting on a proposed action, those

AGENCIES, I.E., EPA OR THE COUNCIL ON ENVIRONMENTAL QUALITY, FREQUENTLY FAIL TO CONSIDER THE UNDERLYING MISSION OF THE AGENCY PROPOSING THE ACTION. WHAT RESULTS ARE A GROUP OF DECISIONS BEING MADE FROM THE VANTAGE POINT OF EACH AGENCY'S OWN NARROW PERSPECTIVE. WHILE THIS MAY ACCOMMODATE THE DESIRES OF A PARTICULAR INTEREST GROUP, IT IS MERELY MYOPIC DECISION-MAKING WHICH OFTEN DOES NOT SERVE THE BROADER "PUBLIC INTEREST". INDEED, UNABLE TO MEET THE DEMANDS OF EACH GROUP, SOME REGULATORY AGENCIES TAKE THE EXTREME REVERSE POSITION THAT NO ACTION IS THE BEST ACTION.

IN OUR REPORT, FEDERAL ENERGY REGULATION: AN ORGANIZATIONAL STUDY RELEASED IN APRIL 1974, THE PRESIDENTIAL STUDY TEAM ON FEDERAL ENERGY REGULATION DISCERNED FIVE MAJOR DEFICIENCIES IN THE EXISTING STRUCTURE. THOSE DEFICIENCIES AND THEIR SUGGESTED RESOLVE ARE AS FOLLOWS:

1. THE TENDENCY FOR FEDERAL REGULATORY AGENCIES TO CONFINE THEMSELVES TO NARROW PERSPECTIVES IN REACHING DECISIONS -- WHETHER THESE BE IN THE FIELDS OF RULE-MAKING AND STANDARD-SETTING, LICENSING, OR MONITORING AND ENFORCEMENT. WITHOUT COMPROMISING THE PRESENT INDEPENDENCE OF REGULATORY BODIES, THE TEAM CONCLUDED THAT COMPREHENSIVE NATIONAL POLICY GUIDANCE ABOUT ENERGY NEEDS AND PRIORITIES COULD AND SHOULD BE PROVIDED OPENLY BY THE

EXECUTIVE BRANCH. THE MECHANISM THAT SEEMS MOST PRACTICAL AND APPROPRIATE IS THAT OF A NATIONAL ENERGY COUNCIL, DISTINCT FROM ANY DEPARTMENT OR AGENCY WITH PROGRAMMATIC OBLIGATIONS.

2. FEDERAL ENERGY REGULATION HAS BEEN MORE RESPONSIVE TO PRACTICES OF THE PAST THAN IT HAS TO PRESENT CONDITIONS AND FUTURE PROSPECTS IN TECHNOLOGY, THE ECONOMY, INTERNATIONAL RELATIONS, AND OTHER ENERGY-RELATED FACTORS. TO A CONSIDERABLE EXTENT THIS DEFICIENCY MIGHT ALSO BE OVERCOME BY THE CLEAR AND CONTINUING FORMULATION OF A NATIONAL ENERGY POLICY. BESIDES, THE SAME NATIONAL ENERGY COUNCIL COULD HIGHLIGHT POTENTIAL INTERAGENCY CONFLICTS AT THE FEDERAL LEVEL AND ENCOURAGE EXECUTIVE AND LEGISLATIVE SOLUTIONS TO EMERGING ENERGY POLICY PROBLEMS.

3. REGULATORY OFFICIALS DO NOT MAKE INFORMED AND TIMELY DECISIONS IN CASES IN WHICH SOME ENERGY DATA ARE INCOMPLETE, UNRELIABLE, INACCURATE, OR SIMPLY UNAVAILABLE. A CENTRALIZED ENERGY DATA OFFICE, WHICH WOULD SUPPLEMENT RATHER THAN SUPPLANT THE MORE

PARTICULARIZED DATA-GATHERING ACTIVITIES OF THE RESPECTIVE REGULATORY BODIES AND PROMOTE INTERCHANGE OF INFORMATION THROUGH A UNIFIED RETRIEVAL SYSTEM WOULD BE HELPFUL. THE FEDERAL ENERGY ADMINISTRATION HAS TAKEN STEPS TOWARD THAT GOAL.

4. THE OPPORTUNITIES FOR DELAY AND LEGITIMATE CONFLICTS OF REGULATORY INTEREST ARISE CONSTANTLY BECAUSE MANY AGENCIES CUSTOMARILY ARE INVOLVED IN THE REGULATORY DECISIONS AFFECTING SIGNIFICANT ENERGY PROJECTS. OPPORTUNITIES FOR DELAY AND CONFLICTS MIGHT BE ELIMINATED BY THE CREATION OF A LICENSING COORDINATION OFFICE -- PERHAPS ALSO WITHIN THE FEA -- WHICH WOULD ESTABLISH TIMETABLES, EMPLOY THE LEAD-AGENCY TECHNIQUE WHEN APPROPRIATE, AND GENERALLY TAKE WHATEVER COORDINATING STEPS ARE NECESSARY TO ENSURE THAT THE VARIOUS SAFEGUARDS OF PUBLIC WELFARE WITHIN THE FEDERAL LICENSING PROCESS DO NOT BECOME BOTTLENECKS.

5. SUFFICIENT MEANS OF INTEGRATING AND COORDINATING EITHER ENERGY OBJECTIVES OR ACTIONS AT THE FEDERAL AND STATE LEVELS HAVE NOT BEEN DEVELOPED. IN ADDITION TO ACTIONS THAT MIGHT

> BE TAKEN BY AN ENERGY LICENSING OFFICE TO COORDINATE EFFORTS IN SPECIFIC PROJECTS, THE STUDY TEAM RECOMMENDED THAT INFORMATION EXCHANGES AND POLICY DISCUSSIONS TAKE PLACE REGULARLY BETWEEN TWO NEW GROUPS THAT WOULD REPRESENT THE FEDERAL AND STATE LEVELS RESPECTIVELY IN ALL MATTERS RELATED TO ENERGY. THE FIRST WOULD BE A FEDERAL OFFICE DEVOTED EXCLUSIVELY TO INTERCHANGES WITH THE STATES AND LOCALITIES; THE SECOND WOULD BE A PERMANENT REPRESENTATIVE BODY CONSISTING OF STATE-DESIGNATED OFFICIALS, WHO SHOULD BE OF SUFFICIENT STATURE TO REFLECT PROMPTLY AND ACCURATELY THE POLICIES AND INTENTIONS OF THEIR GOVERNMENTS.

THE RECOMMENDATIONS OF THE STUDY TEAM INCLUDED A COMPOSITE OF RELATIVELY SIMPLE CHANGES PROVIDING THE BASIC PRINCIPLES OF COORDINATION, COOPERATION, AND CANDOR. ALL RECOMMENDATIONS CAN BE IMPLEMENTED PROMPTLY, AND SEVERAL ARE FLEXIBLE ENOUGH TO PERMIT READY MODIFICATION IN RESPONSE TO NATIONAL REACTION.

FOR EXAMPLE, IT WOULD NOT MATTER SUBSTANTIALLY IF THE GUIDANCE ON NATIONAL ENERGY POLICY CAME FROM SOME ENTITY OTHER THAN THE NATIONAL ENERGY COUNCIL SPECIFICALLY PROPOSED. CONCEIVABLY, IT MIGHT COME FROM A COUNCIL IN THE WHITE HOUSE, MADE UP OF AGENCY AND DEPARTMENT HEADS. THE IMPORTANT

REQUIREMENT IS THAT FEDERAL REGULATORS MUST UNDERSTAND THE BROAD IMPACT THEIR DECISIONS ARE LIKELY TO HAVE IN THE CONTEXT OF A NATIONAL PROGRAM WHICH ACKNOWLEDGES CERTAIN END-USE PRIORITIES, SPECIFIC COMMITMENTS TO ENVIRONMENTAL PROTECTION, LAND USE AND RESOURCE DEVELOPMENT, THE DEVELOPMENT OF NEW TECHNOLOGIES, AND THE REQUIREMENTS OF NATIONAL SECURITY AND INTERNATIONAL FINANCIAL STABILITY.

OF COURSE, IN ORDER TO ADVANCE PUBLIC CONFIDENCE, THERE SHOULD BE SERIOUS RESERVATIONS ABOUT ASSIGNING THE DEVELOPMENT OF POLICY TO ANY GROUP WHICH ITSELF HAS ITS OWN PROGRAMMATIC RESPONSIBILITIES BECAUSE THAT COULD PRODUCE EITHER A REAL OR A SUSPECTED BIAS. SIMILARLY, EVEN THE APPEARANCE OF ERODING THE APPROPRIATE INDEPENDENCE OF REGULATORY COMMISSIONS COULD BE COUNTERPRODUCTIVE. CONVEYING POLICY GUIDANCE OPENLY MIGHT INCLUDE THE SUBMISSION OF POSITION PAPERS ON THE FORMAL RECORD OR APPEARANCES BY THE NATIONAL ENERGY COUNCIL AT PUBLIC HEARINGS. POLICY INFORMATION WOULD NOT SUBSTITUTE FOR EVERY REGULATOR'S OBLIGATION TO CONSIDER EACH CASE ON ITS MERITS, AND WHENEVER POLICY GUIDANCE WAS LINKED TO A SPECIFIC CASE OR RULE-MAKING PROCEEDING, THE GUIDANCE WOULD HAVE TO RELATE EXCLUSIVELY TO EFFECTS ON NATIONAL ENERGY OBJECTIVES. WITH THESE GROUND RULES, THE RESULT SHOULD NOT BE A LESS INDEPENDENT REGULATORY PROCESS BUT A BETTER INFORMED ONE -- WITH AN EN HANCEMENT OF PUBLIC UNDERSTANDING.

If the general public has been bewildered by the arcane intricacies of developing electric utility rates, the average citizen is even more at a loss to weigh conflicting testimony offered routinely before technological regulators. Public trust in the system, however, is indispensable. Such trust presupposes public access to the facts and public participation in the process. That principle must remain firm.

Regulation is a means of protecting the total public interest while assuring that essential services are provided as needed. It works because it is supported by the public; it works because it is dynamic and responsive to the needs of the public. Our goal must be to keep that regulation dynamic. That can be maintained only if we are constantly willing to change.

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES
1750 K Street, N.W., Suite 800
Washington, D.C. 20006

June 11, 1976

Mr. Erasmus H. Kloman
Senior Research Associate
National Academy of Public
  Administration
1225 Connecticut Avenue, N.W.
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Dear Mr. Kloman:

The purpose of this letter is to provide answers to the three questions included with your letter of June 3. Before doing this, however, I must make two things clear: (1) any opinions I state either in this letter or at the conference are my own and not necessarily those of the Commission, and (2) I am not and do not purport to be an expert on energy or energy policy. I have agreed to become involved in your conference because of the close similarity between the questions you are addressing and those we face here at the Commission. Indeed, if you were to substitute the word "materials" for the word "energy" in your three "broad questions," you would have the same questions that we have been wrestling with since we began operation last October. What we are increasingly finding -- and what your conference no doubt will confirm -- is that there is a common set of interrelated problems affecting energy and materials, and that analyzing them as separate entities makes little sense.

Let me answer your questions indirectly by relating to you what I believe our work to date shows about materials problems and about the ability of the government as it is currently organized to deal with them.

Our Commission was set up in the aftermath of the most pervasive period of shortages since the Korean War. In an economy used to abundant supplies of materials, particularly during peacetime, these shortages were traumatic. Coming as they did soon after the Club of Rome had issued its famous report, "Limits to Growth," these shortages set off fears that the Age of Scarcity was at hand, and that the shortages were but the first manifestation of it. Indeed, it would not be unfair to characterize the time from early 1974 until the end of the first quarter of 1975 as a period of panic. Much of the behavior that was observed during that time can only be explained in that way. Purchasing agents acquired materials in quantities they could not possibly use because of fears that they would be unable to get what they did need. A casual remark by Johnny Carson on the Tonight Show about a possible toilet paper shortage sent housewives to the supermarkets to make sure that their families would not be without this important product -- and Mr. Carson was made an instant prophet by their actions. Government decisionmakers and captains of industry warned gravely about the need to change lifestyles. Indeed, the workshop you held on resource management in August of 1974 reflected many elements of this panic.

The shortages disappeared as fast as they came. The sharp downturn in the economy -- which the shortages indirectly contributed to -- caused the turnaround.

We have attempted to find a link between any material shortage that occurred during 1973-1975 and a possible long-run deficiency in the supply of that material. We can find none. Indeed, so far as we can determine, with the possible and important exceptions of petroleum and natural gas, there is no major problem of long-run availability with regard to the resources we require to support our current standard of living. The necessary materials are available in the earth's crust and at prices we can afford.

The evidence I have seen suggests strongly that, by and large, the market will provide adequate signals to direct the efficient long-run development of resources provided proper mechanisms are created to assure that this development bears its full private and social costs and provided government actions taken for whatever reasons do not themselves generate such a level of uncertainty about the future "rules of the game" that the market's signals are totally muddied.

However, I do believe that a strong case can be made for increased monitoring of long-run developing trends in resource use and availability. Such a monitoring effort would serve two purposes: to help see to it that we do not take hasty and ill-conceived actions in the name of solving what may turn out to be nonexistent problems, and to give us a fighting chance of detecting possible nasty surprises while there is still time to evaluate them adequately and to prepare a timely and appropriate response.

As I said above, our recent shortage experience was a clear demonstration of what economists have long known -- that short-run shortages need not have, and generally do not have, anything to do with long-run resource availability. Instead, they are caused by a variety of factors having to do with the ability of current supply to meet current demand. Their occurrence, severity, and duration are affected by the ease with which changes in each can be made in response to changes in the other. While appropriate governmental actions that are properly timed may forestall or alleviate a shortage, actions that are inappropriate or improperly timed, that reduce the flexibility of markets in responding to changed conditions, or that ignore market interrelationships (including the interrelatedness of the world economy) and longer run consequences, are likely to prove more harmful in the short run than doing nothing. In addition, they embody the potential for generating long-run harm. Determining when a particular proposed governmental action is both appropriate and timely, and when the market, though imperfect, is best left alone, generally requires a sophisticated and detailed knowledge of the workings of particular materials markets and of their interrelationships with other markets.

Work done by the Office of Technology Assessment in their recent study of materials information systems, together with work done by my staff, suggests that the primary barrier to making such determinations is, with certain important exceptions, not a lack of data on materials or materials industries, but a lack of adequate analysis of the large amounts of data we already collect. By and large, the agencies charged with collecting, processing, and disseminating these data do not now possess the analytical capabilities that are required to support intelligent policymaking in the materials area. The OTA assessment proposes three possible approaches to improving the current system and seven institutional alternatives for implementing the suggested approaches to improvement. The alternatives that appear to be most favored by OTA are a Bureau of Materials Statistics or a Bureau of Materials Statistics and Forecasting, either of which could be located within an existing cabinet department. The Commission staff currently is examining these options in detail. We expect to present recommendations to the Commission in August or September.

In April, we held our own one-week conference at Dedham, Massachusetts, that dealt with a set of questions similar to these you will be addressing at yours. The discussions at the Dedham conference, together with other of our work, suggested that in addition to the problems just raised, there appears to be a serious weakness in the ability of current Executive Office agencies to analyze and understand the cross-industry and longer term consequences of policy alternatives that impact, either directly or indirectly, upon materials industries. There are several possible means of remedying this deficiency. These are currently being analyzed by the Commission staff and by the staff of the MIT Center for Policy Alternatives. While these alternatives have not yet been fully evaluated, one option I find intriguing involves the creation, either within or closely attached to OMB or the Council of Economic Advisers, of a small group of Senior Specialists who would serve the needs of all Executive Office agencies for advice on and evaluation of the current status and long-run prospects of key industries and other important segments of the economy, who would initiate and coordinate cross-agency and cross-industry analyses of the impact of current and proposed governmental actions (regulatory and otherwise), and who would serve to bring emerging longer run problems to the attention of senior decision-makers. Currently each small Executive Office agency has its own staff of sub-optimal size. Therefore, development of such a capability could be consistent with a net decrease in personnel, in my opinion.

The problem just mentioned is not confined to the Executive Office of the President. The recently published Interim Report of the Commission on the Operation of the Senate states:

> "The way in which decisions are reached in the Senate -- and the availability of information and analysis to support those decisions--is viewed by many Senators as one of the most important subjects which the Commission (on the Operation of the Senate) is studying. There is a widespread view that programs too often have unintended results and sometimes prove to be counterproductive. With a growing complexity of social and technological problems, there seems to be a need for new institutional capabilities with wide-ranging analytical responsibilities and ready access to centers of knowledge throughout the nation. Moreover, the existing decision-making arrangements in the Senate were not designed to generate and utilize cross-cutting analysis of issues." (p. 10)

We are giving some attention to this issue, though we are not attempting to duplicate the work of our sister commission. The important question here seems to be whether Congress will require an analytical capability of its own, or whether it can draw in some way upon capabilities that might exist or be created elsewhere in the government.

One of the issues that arose repeatedly at the Dedham conference and that has arisen throughout the staff's work to date has been the continuing tension that exists between the recognition that we must take the long-term view if we are to avoid creating problems by our short-term actions and the strong political imperative to think primarily short term. Various means have been discussed to force attention to be paid to the longer run impacts of policies designed to deal with short-run problems. A variety are outlined in the report of the Dedham conference. One of the more interesting appeared to be something that, for want of a better name, was called a "National Resources Board." There is some experience, much of it discouraging, with such an institution. Yet the idea continues to surface. For example, during the debate about how to organize the various agencies that would deal with environmental issues, it was proposed that a non-profit, quasi-governmental National Environmental Policy Institute be created to conduct objective and impartial strategic policy analyses. The institute came very close to being created, finally foundering on a dispute that arose over the choice of the director. The Commission staff and our Advisory Committee are investigating options in this area.

With regard to this issue, the Commission must address three questions: What, if any, institutions might be devised to surface and to evaluate issues having longer range impacts on materials supply and demand? Is it possible to devise any institution that stands close enough to the centers of power to command attention and wield influence but that remains far enough away to maintain perspective and external credibility? and What, if any, steps could be taken to see to it that any such institution would not be captured by a single political, economic, social, or scientific point of view?

I hope this provides some help to your conferees. I would be happy to elaborate on any or all of these points in more detail at the conference. I look forward to seeing you on June 22.

Sincerely,

George C. Eads
Executive Director

Charles J. Hitch
June 21, 1976

NAPA WORKSHOP ON GOVERNMENT ORGANIZATION FOR ENERGY AFFAIRS

Program Coordination and Central Policy Formulation

I welcome this opportunity to introduce a discussion of the Government's organization for energy program coordination and central policy formulation.

Let me say first that I expect to learn more than I can teach from this discussion. I have spent much of the past year wrestling, to the best of my ability, with the problems of energy policy for the U.S. I have not thought long or seriously -- indeed scarcely at all -- about the related organizational problems. So I appear before you without specific recommendations.

In my opinion, U.S. energy policy and its implementation are in an unhappy state. In some small part the dispersion of responsibility within the executive branch may be a cause. But there are other causes, far more important, which are not organizational, and which reorganization alone could do little to correct. Let me list some of them:

1. The public does not accept the administration's official view of the seriousness of the energy crisis, or its security goal of "independence" (even as re-defined). It is therefore unwilling to accept policies which impose social costs and risks.
2. Conflicts in values. Equity vs. the efficient functioning of a market economy. Increased energy supply vs. the achievement of environmental goals. Increased energy supply vs. the risks of nuclear proliferation. The need for higher prices (to stimulate supply and conservation) vs. fears of inflation.

3. Conflicts between the executive and legislative branches, reflecting in part a different understanding of the problem, and in part the conflicts in values listed above.

4. Conflicts between the Federal government and State and local governments. With very few exceptions energy sources and energy conversion facilities are noxious and unsafe or otherwise degrade the environment. Hence the "not in my backyard" syndrome. Locate nuclear power plants, refineries, off-shore drilling, strip mining, etc. etc., somewhere else.

5. The absence of effective international organizations to cope with the world supply and demand of energy and especially with the problems of the nuclear fuel cycle and proliferation; and the limited leverage the U.S. has to influence such international organizations as do exist or other national governments.

It is interesting to note that these five "causes" of our slow progress are all political -- in the best sense of that term, and at the highest level. Given that fact, I think the appropriate question to ask is: should the machinery for policy formulation and implementation be dispersed, with coordination in the Office of the President, as now; or should it be centralized, as urged by proponents of a Department of Natural Resources, or of Energy and Power?

Certainly dispersion has its drawbacks, in the form of waste from duplication, bureaucratic conflict, etc. But centralization also has its drawbacks. It could be worse. The answer is not clear to me.

The creation of ERDA and NRC was, in my opinion, a constructive step. It made sense to place responsibility for the R and D of all (or almost all) energy technologies, whether nuclear or non-nuclear, in a single agency; and to remove from that agency, inevitably to some degree a promotor of the technologies, responsibility for regulating and licensing. Any reorganization we consider at this time should preserve the gains from that legislation.

The great advantage of our present dispersed organization is precisely that conflicts cannot be hidden. They are automatically referred to the center -- to the Energy Resources Council and OMB -- and since most members of the ERC, as well as the chairman, have direct access to the President, the crucial "tilt" in policy is his to determine. Perhaps, given the highly political character of the causes of a lack of consensus on policy -- public apathy, fundamental value conflicts, differences with Congress and the States, the impact on foreign relations -- this is just as it should be. The more policy functions we consolidate under a single agency or department head, the fewer of these conflicts will receive regular, well informed attention at the White House level.

This is not to conclude that ERDA and FEA should not be combined, possibly along with some of the remaining energy functions of Interior. I can see one great potential advantage. It troubles me that nowhere below the White House is anyone systematically weighing alternatives to government R and D. There are two basic ways to stimulate increased supplies of energy and greater conservation of energy:

1. Government sponsored and financed R and D.
2. Appropriate incentives (carrots or sticks) for private industry and individual citizens to do the job.

It is not a case of either/or. We would all agree, I think, that we want, at a minimum, to create a favorable climate for industry and the consumer to play their roles; and that Federal support of a great deal of basic and applied energy and energy-related research is desirable and appropiate.

There are also ingenious blends of the two approaches, as in the proposed Synfuels legislation.

But there are important choices to make at the margin, particularly as they relate to the later stages of R and D -- to development and demonstration and "commercialization". A technology oriented agency like ERDA, with the best of intentions (which it has) is always likely to "tilt" toward government sponsored R and D. In a Department of Natural Resources, an Assistant Secretary for Fossil Fuels, for example, exercising what are now FEA and ERDA and perhaps other functions, might be expected to ask: wouldn't it be better if industry built this demonstration plant, or its equivalent, and isn't there some way -- other than a government R and D contract -- to induce them to do it? Or an Assistant Secretary for Conservation might well decide that the most effective thing he could do in the residential area would be to provide help to homeowners to finance the purchase of insulation, heat pumps, and (hopefully before long) solar heating and cooling units.

These are not the kinds of choices which ought to be made in the White House. There are too many of them, and they require much technical knowledge as well as economic analysis and judgment, which means large staffs. On the other hand, they are political in the sense that influential constituencies will care very much which way they go. At least the general guidelines must come from the White House. So I end with a question mark, except that I see little to be gained from a consolidation which excludes ERDA.

Finally, whether or not we combine ERDA, FEA and Interior, or parts of it, in a single department or agency, all the real and serious problems I outlined at the beginning will remain. We can never pull together all energy and energy related policy making at any level below the White House. Energy has become too pervasively important. It is a dominant factor in foreign policy and fiscal and monetary policy; a critical input to agriculture and transportation; and perhaps the greatest of all threats to the environment. We can't fold EPA, DOT, DOA, Treasury and State (to say nothing of the regulatory agencies) into a Department of Energy and Power or Natural Resources. There will remain much for the White House to coordinate and perhaps even formulate.

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June 17, 1976

Mr. Erasmus H. Kloman
Senior Research Associate
National Academy of Public
  Administration
1225 Connecticut Avenue, N.W.
Washington, D. C. 20036

Dear Mr. Kloman:

I regret that I am unable to participate in the workshop on government organization for energy affairs on June 22 and 23. The program looks excellent, and my reading of the questions you distributed in advance suggests you are tackling the right issues.

I hope that you will explore the opportunities for creating a National Energy Administration as an interim step on the way to a Department of Energy and Natural Resources. It seems to me that such an approach would improve the quality of decision-making, eliminate some unnecessary duplication, and improve relationships between Congress and the Executive Branch. I would also suggest that some attention be given to a more formal White House coordinating mechanism for energy policy such as a Council of Energy Advisors. The existing arrangements--primarily the Energy Resources Council--could stand improvement.

Best wishes for a successful conference. I would appreciate receiving any of the papers which are available.

Sincerely,

John C. Sawhill

COMMENTS ON THE GOVERNMENT ORGANIZATION FOR ENERGY AFFAIRS

by

Chauncey Starr, President
Electric Power Research Institute

The management problems faced by the federal government in the field of national energy affairs arise from three fundamental situations as follows.

I. Ignorance of Energy System Interactions

Although it is now common knowledge that energy in its various forms pervades all societal activities, only partial knowledge exists as to the nature of these interactions with regard to their effect on national economic affairs such as inflation, economic growth, and income distribution; and the impact on public welfare such as employment, public health, housing, recreation, and other quality of life factors; and the impact on national security issues such as foreign trade, political relationships, dependence on imported raw materials, and international market competition. There never has been a comprehensive technology and social assessment of energy systems and we have only a primitive knowledge of the real role of energy in our society.

It is obvious that legislative and administrative actions taken under these circumstances are apt to be at best superficial and palliative, and at worst may be dangerously destructive. This ignorance of the workings of our energy systems exists not only in the public and legislative domain but in various degrees pervades the professional and industrial parts of the energy industries. While these latter practitioners may understand the structure of their areas of professional activity, the relationship with the national scene usually is only dimly perceived even by these experts.

II. Confusion of Policy with Objectives

Government actions in recent years have illustrated an almost naive confusion on the mix of national objectives, and the policies required to achieve these. Clearly, it is meaningless to legislate an objective. As an example, the following have been stated as some of the objectives of a national energy policy: energy adequacy; national self-sufficiency; resource preservation; resource exploitation; minimal environmental impact; minimal cost; economic growth; full employment; etc.

It is evident to any analyst that many of these objectives are contradictory in their demands on energy systems and that pragmatically a reasonable balance of social values must be achieved in any implemented program. Yet, for example, the act creating EPA directs it to seek a clean environment without the restraint of cost or resource availability, and in a similar fashion FEA is directed to reduce oil imports without regard to the restraints of environmental impacts.

Thus, federal policies, and the legislation and administrative implementation that flow from these policies, end up in a series of actions with contradictory objectives and with unforeseen consequences resulting from the ignorance of the system behavior described above.

There are examples of clear policy decisions derived from clear objectives. The French, for example, have made a national decision to reduce to an absolute minimum their dependence on oil, all of which has to be imported. As a consequence, they are moving rapidly to convert all their electric power generation from oil to nuclear with only a small residual portion being supplied by coal and hydro. Such a clear policy example does not exist in any form in the U. S. energy field.

III. Institutional Inadequacies

Except in very limited amount, the federal government has no responsibility for delivery of energy forms to the ultimate consumer. Although some electricity is generated by the Bureau of Reclamation and TVA, the bulk of energy delivery is the responsibility of the non-federal sector. Yet, many federal agencies have major authority to interfere with or constrain the operations of energy delivery systems. The result is the existence of institutional authority without either responsibility or accountability. To the public, the failure of energy system performance is always caused by the visible non-federal sector involved. The practicalities of our political system are such that it is a rare occasion when the actions of government agencies can be publicly shown to be held responsible for inadequate performance of the private sector.

The most extreme example is, of course, the regulated utilities where, in return for the monopoly provided by a franchise, the utilities are closely administered by public groups not operationally responsible for the final performance of the utility. In fact, the regulatory bodies share the responsibility for the functions of utilities with their paid management. The public expects the regulatory role to be restrictive rather than managerial in nature, and generally perceives the required compromises as being too permissi

On the federal level, the problem is aggravated by the fact that the constituency for federal agencies is one or more congressional committees rather than the public being provided with the energy services. Further, the tenure in office of responsible federal officials is usually very short compared to the life time of their decisions. We thus have the basis of bad management namely, a constituency not directly affected by the decisions, and a decision-making group not having to live with the consequences of their decisions.

Given the above framework for our national energy affairs, how then should decision-making proceed? We must recognize the above uncertainties, namely

1) the partial information on our current energy system;
2) interactions that are both obscure and complex;
3) disparate implementations and regulations; and
4) multiple and conflicting goals.

Under these conditions, it is evident that there are no simple solutions or policies that can be followed. Since we don't know the right answers, it is very dangerous to assume one direction to the detriment of all others. This is very much like the problem of investment portfolio management. With an uncertain future and uncertain outcomes of any action the wisest path is one of multiple programs, each of which has potential merit either as an investment in our energy future or as an insurance against negative outcomes. The answer then is judicious diversity.

If one accepts such an approach, what does this mean in terms of government agency organization in the energy field?

First, we should not centralize all controls and programs in a single agency. Our political experience indicates that this is much too dangerous if we are really seeking a diversity of activities for the following reasons:

1) Pressure for politically visible performance will certainly encourage oversimplified dramatic "blanket" solutions.
2) The consequences of error can be very large, such as unemployment, economic collapse, and foreign conflicts.
3) The time required for remedial action of a bad decision is much too long to permit the trial and error approach which characterizes the political process.

4) Budgetary pressures usually result in eventual concentration on only a few programs.

5) Agency heads are political appointees and usually do not stay long enough to learn the complexities of their responsibilities even if they are intrinsically capable. This is particularly true today when the popular concern with "conflict of interest" results in political appointees having no historical experience with the domain of agency responsibility.

6) Large federal agencies tend to be run almost exclusively by the permanent staff with a diffusion of accountability, tendency to programmatic inflexibility, and a typical insulation from overall national goals and purposes.

7) A single energy agency, which might combine the function of FEA, FPC, ERDA, Bureau of Mines, etc., would be equivalent in national influence to combining the Federal Reserve Board, Treasury Dept., and Department of Commerce. Considerating all the negative aspects of above, can we run the risks of such concentrated power?

8) The usual corporate management philosophy of concentrating responsibility in a limited number of executives is not applicable to government functions, particularly in the energy field. For all the above reasons, an energy "czar" in government would not be given the tools and the full responsibility to perform, but would likely become at best an expediter, usually a coordinator, and at worst a bottleneck. Corporate management cliches are just not applicable to government agencies.

What then do we do to obtain a multiple set of energy system programs? It is, of course, not feasible to have as many independent federal agencies as we have individual energy programs. However, it is clear from the structure of ERDA that this agency has segregated itself into several major areas. The current experience with that agency would indicate that it could probably be operated more effectively if the nuclear sector, the fossil fuel sector, and the advanced technical systems each had the national status which was originally that of the five-man AEC. The overlap of technical programs between such groups is so small that coordination of their activities could well take place at a coordinating level rather than at an operating level. The experience with ERDA would justify a reexamination of the merits of the desegregation of R&D responsibility, with a clearer role for the Department of the Interior in the area of fuel resources (coal, oil, gas, uranium).

With regard to the regulatory agencies in the energy field, much of their activity is now concerned with marginal and hypothetically projected impacts confused by the actual "fact" uncertainty concerning these matters (ex: ozone in atmosphere, chlorine in water, pollutants in air, and plutonium hazards). They should now be controlling chiefly the large and obviously undesirable effects. There are enough of such large impacts that common sense is sufficient to define where these efforts should go. The low level marginal risk issues must eventually be addressed as our insights into their significance becomes scientifically comprehensive, but because their control is usually a very costly national undertaking and the benefits may also be marginal, the current high level issues should be tackled first. Both the fossil fuel and nuclear energy fields have many examples of such unbalanced priorities.

Again recognizing the future uncertainty associated with the merits of different energy system approaches, we should permit each alternative to develop until such time as the operational data is reasonably reliable. It is likely that the answers from such experience may turn out to be very dependent on regional factors rather than general, and may vary over the years. In the foreseeable future there may not be a single energy system or a single energy policy which is optimal for the nation.

[6-24-76]

WILLIAM E. WARNE
Consultant
WATER RESOURCES DEVELOPMENT / PROJECT FORMULATION AND APPRAISAL / AGENCY ORGANIZATION AND ADMINISTRATION

June 9, 1976

MEMORANDUM

TO: Dr. Erasmus Kloman, Senior Research Associate

FROM: William E. Warne, Participant in the Workshop on Government Organization for Energy Affairs

SUBJECT: Response to questions circulated in advance of meeting of June 22 and 23, 1976

A. What are the principal weaknesses in the present organization and administration of federal energy programs and how may they be rectified?

Principal weakness is: The absence of clearly stated over-riding policy and program guidelines, which weakness is intensified by the dispersal of authority and division of inadequate programs among poorly coordinated agencies. (If Project Independence incorporates the controlling energy policy, then increases in foreign oil imports mean the policy has failed, but no serious program has been put forward to mitigate imports. If resumption and maintenance of full employment is the controlling policy, failure to fix related goals of energy production and to devise programs to meet the energy goals indicate that this objective also will not be reached. If Project Independence and

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full employment are equally important objectives, both of which are expected to be achieved, then the dispersal of authority among uncoordinated federal agencies can not be tolerated in the future, for at present in some respects they are working at cross-purposes.) To rectify the weakness, the Administration and the Congress must provide the nation with a clear statement of a comprehensive energy policy related to other national economic and social policies, and provide through Government reorganization the means of enforcing the national energy policy and conducting or coordinating programs at all levels adequate to support and achieve the established goal.

B. What are the principal weaknesses in present arrangements for formulating, coordinating, and implementing national energy policies and how may they be corrected?

There now exists no comprehensive federal agency with authority or scope of jurisdiction equal to the task of recommending national energy policies related to other economic and social policies (such as full employment and environmental protection), and, within the Congress, the existing committee systems are not conducive to the production of the needed central theme to guide the nation. In my view both houses of the Congress suffer, as does the Executive Branch, from fractured leadership, with members, committees and staffs at time protecting their positions and jurisdictions at the expense of comprehensive policy and program formulation, much as the agencies downtown bicker and relentlessly pursue their too narrow assignments. I do not altogether despair, but I think reorganization of a rather broad sweep is required at both ends of Pennsylvania Avenue, and I fear such reorganization may be long in coming.

C. How can energy policies and plans be integrated with broader national economic and social goals?

So long as they are inchoate, they can not be. Energy policies and plans, in my view, must be made with the purpose of supporting broader national economic and social goals. If X amount of electric generation will be needed in 1990 to support employment of Y number of workers, then programs should be instituted to supply X amount of electric generation within the limits of acceptable environmental considerations, or the number of workers expected to be employed must be reduced. If the interaction of the various elements that make up the equation indicates essential modifications of goals will become necessary, then only coordination within a comprehensive plan will avoid crises, surprises and disappointments. Only through raising energy planning and programing to a level of comity with economic and environmental planning, can success be attained.

Subsidiary questions:

I think federal operating programs should be drawn into a single agency like the proposed DENR. I fear a NEA will be inadequate, and present administrative arrangements should be considered only temporary responses to national needs. The benefits of a DENR would be that it would provide an institutional framework substantial enough to bear the load of coordination and administration, whereas the other alternatives, I believe, will not. A DENR would still leave the problem of inter-departmental coordination of energy with economic and social planning and programs, but the problem, I think, would be reduced to manageable size. This coordination must come through cabinet-level machinery. In time, a solution of inter-departmental coordination problems, like that sought through the creation of the Department of Defense to the problem of coordination and supervision of the military departments, may require a Department of Civil Resources Management, into which Commerce, Labor, DENR and EPA might be collected but remain as departments of the Government. The formation of DENR would be, I believe, an essential first step in a longer-range program. It might provide a 25-year answer.

Regulation in the energy field has been relied upon to provide all the national energy requirements through creating climates in which private and public enterprises might attack local problems and fill the energy needs of limited regions. The sum of these regulated responses no longer meets national requirements. The regulatory agencies that affect the energy field march to many drummers and will not fall in step to invent among them a national energy policy. If the dimensions of a national energy program were clearly sketched out, it is possible that, with appropriate Congressional guidance, the regulatory agencies could coordinate their activities so as to promote the desired end.

The initiative for regulated programs is not expected to come from the regulators, who are, rather, obliged to react and shape programs in accord with the public interest as it has been described for them. When different programs regulated by separate agencies are found to interact upon one another and the systems of regulation begin to impede progress of one or another of the programs toward its goal, the tendency is to blame one of the regulatory agencies for the poor result, but so to point the finger may be grossly unfair. The fault more likely should be assessed against the authorities who lay out the programs without unfettering the agents they have assigned to regulate them. The regulatory agencies should be reviewed and aligned with the new, national energy program when it is set forth.

Policy Formulation and Coordination certainly are not satisfactory as now implemented by a plethora of agencies, including the Economic Policy Board, the Energy Resources Council, the OMB, the FEA and others. There is no adequate arrangement within or among these facilities for reviewing energy policy in the context of national security, environment, and full employment goals. It is not that the problem of formulating a national energy policy and then effecting it is beyond the capability of our institutions. Instead, the problem is that we have permitted the need for weighing the demands upon our resources and alloting them to go untended until a crisis is at hand. We are engaged in a vast game of catch-up. A natural reluctance to do anything violent about restructuring our institutions is impeding the searching study of the reorganization that is now called for by the times.

I look upon conservation of energy as the product of voluntary public reaction to a clearly understood need. The reorganization or combination of the agencies that presently have responsibilities for promoting energy conservation will do little good, unless the Congress and the Administration can articulate a plan to meet our future energy requirements to which the public can relate. Speed limits of 55 miles per hour can be legislated, but unless the public agrees with their objectives, it will not be easy to enforce them on freeways that were deliberately designed for 70 mph traffic.

Within the Senate--and the House of Representatives as well--committees that are poorly aligned with proposed new executive agencies will find it difficult, if not impossible, to bring forth the needed legislation to provide the energy coordination. If executive agencies are created, the coordination that they seek will be difficult if not impossible to attain, unless the Congressional committees are reorganized to match the new programs piece to piece. The various agencies of the Congress may be effective in advising the Congress on needed reorganizations, but they are naturally inhibited. The committee bureaucracies in the Congress have their own institutional jealousies that even such objective agencies as the GAO and the Library of Congress are loath to arouse.

How to effect a national energy policy without trampling upon state and local jurisdictions, how to recognize that many powersheds form regions that do not match state and local governmental boundaries, but willy-nilly violate them, how to be just to the few people who may live on lands overlying resources on which great industrial cities a few states away will depend, these are the gut questions that have impeded early action by the Congress in the national energy crisis. My observation is that state and local agencies with responsibilities in the energy and other resources fields are increasingly resentful and suspicious of federal agency collaboration. The federal agency, feeling that national law which seldom leaves them maneuvering room is superior, are accused of cooperating only on their own terms, which the lesser jurisdictions do not believe is cooperation at all. Initiatives in California have indicated by their widespread popular support that many millions of voters are even more suspicious of big brother in Washington than are the state and local governments. National energy programs, I think, must delineate roles for the states and local governments, and give the federal administrators latitude for plural applications of their discretionary powers. Provision should be made, as through interstate compacts, for regional energy agencies that are initiated from the grass-roots and not imposed by national authority.

The private sector has had the dominant role in the past in supplying the nation's energy. The national energy policy of the future perforce must rely on industry to effect it. Government participation may be needed in financing costly facilities, organizing energy centers, or creating an effective national grid, but the role of industry will not be greatly expanded by reason of future growth. The industry should be invited into the planning councils, and its advice should be listened to. It may not be possible soon to eliminate the suspicion of big government altogether, but every effort should be made to avoid incurring openly hostile reactions to needed national programs. There is a careless arrogance at times in the attitude of the public official upon whom new and heavy responsibilities have recently devolved. There is occasionally a bitterness in the mind of the industrial executive that precludes on his part easy communications with the government, regardless of how conciliatory a government official may be. Probably only frequent and continuing mutual undertakings will break down such attitudes, and these mutual government-industry undertakings will have to be related to a goal greater than either of the parties. The endeavor must be great enough to earn the loyal support of both parties.

IV. SELECTED EXCERPTS FROM THE TRANSCRIPT OF PROCEEDINGS OF THE NAPAF WORKSHOP

The following excerpts from the transcript of the June 22–23, 1976, workshop on Government Organization for Energy Affairs have been selected and edited by CRS as a supplement to the summary and the submitted statements. They cover the following general topics:

Energy policy.
Federal state relations.
Federal energy regulation.

The full text of the transcript is on file and available in the Environment and Natural Resources Policy Division of the Congressional Research Service and the Government Operations Committee of the U.S. Senate. The excerpts represent about one-fourth of the full transcript.

ENERGY POLICY

Chairman **Crawley**. I would like to proceed, if it is agreeable, with the backdrop that Senator Percy has provided us and would like to entertain discussion with regard to the pros and cons of the integration of the four organizationally discrete energy functions that the Senator set forth, pros and cons in terms of their integration into a single department as against their separation, and I would remind you that those four functions are first of all, energy policy generation and review; second, energy data collection and analysis; energy regulation is the third and the fourth, operating programs, including those which deal with energy supply and use.

Mr. **Finger**. Do you include R. & D. in that?

Chairman **Crawley**. Yes, exactly. Any comments? With regard to the pros and cons of integrating these four functions into a single unit or separating them into several units?

Mr. **Cooper**. I would like to elaborate a bit on my visceral sense, that in this case, as perhaps in other cases of the Federal bureaucracy, bigger is not necessarily better and I take the Senator's point that we are talking about functions that are related. But in the last analysis you know, many of the problems that concern us, not simply in the energy area, but the whole sweep of questions that relate to economic growth, energy populations, transportation, these are all related. So if you want to take the point of related positions to the final logic, then you would have perhaps a domestic department as opposed to a Defense Department, and a State Department.

Obviously, you cannot do that, simply because it is clearly unmanageable. But having said that, what surely is necessary, what surely is necessary is to have an energy policy. So far as I know, there is not now an energy policy. ERDA is striving to develop an R.D. & D. policy and I think is terribly serious about this and very conscientious about this, and in the light of the fact that there is no energy policy, is probably doing quite well in developing an R.D. & D. policy in the course of which obviously, you fashion some kind of an energy policy simply because of R.D. & D. and so forth.

There is now no energy policy. Clearly, there should be an energy policy; if there is going to be an energy policy, presumably it has to be undertaken in one place, in one function. Clearly, too, it has to be related to an economic growth policy. Clearly, too, it has to be related to a foreign policy and international trade policy.

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Mr. **Brooks**. I would have some basic differences. They may be more semantic than anything but I would just state my belief that this country does in fact have an energy policy, it just happens to be a pretty rotten one. But you always have a policy; whether you like it or not.

is something else. And what we are really talking about is changing the existing policies from some very bad policies we have had in the past to something better.

We get very confused when we talk about the policy in that sense, because what everybody is really saying is, "what I think a good national policy ought to be or what ought to be different." So we are talking about going from here to developing something that represents a national consensus and perhaps where we have to go with respect to policy.

Mr. COOPER. Could you articulate what you think the national energy policy is?

Mr. BROOKS. I think our policy is extremely fractured, and in some cases our policy is to do nothing or to fight with each other and not understand the problems and not try to do anything about it.

But that is a policy. Doing nothing is just as great a policy as doing something.

Mr. COOPER. If I may say so, it is not a policy. It is only a policy if you decide to do nothing, having examined the alternatives.

But, if you do nothing by default, that is a kind of a habit and not a policy.

Mr. BROOKS. I would claim the result is the same. And if your institutions are unable to grapple with the problems they in fact are saying, it is our policy to not grapple with the problems and therefore do nothing.

Mr. EADS. The results are very different if you decide to do nothing and know why you are doing nothing. Then you have a reason. You have looked at it.

Mr. BROOKS. The result is the same.

Mr. EADS. No; not at all. The things that can cause you to change it are very different.

Mr. BROOKS. Well, regardless, my view of it is that there is a policy and we may not agree with it, may not like it, may want to change it, and I think looking at it that way makes a little bit of difference in how you approach it.

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I think we need in this country, and particularly within government, to take a very good course in what I would call healthy conflict or constructive conflict. How to deal with conflict, so it does not overwhelm us when someone does not agree with you.

I run into this on a daily basis, in my own State government, where, whenever I do something and someone else does not agree with it, they want to know why did you do that? Why couldn't we have just sat in the backroom and talked about it? Because they cannot deal with the kind of conflict, and conflict is absolutely necessary, I think, in this whole energy picture.

I view with great alarm prospects of having one Federal agency that decided what data was going to be for this country. I have had so many problems already with FEA in terms of data, and disagreements with respect to data, and oftentimes we have been right, and oftentimes they have been right. But at least through the conflict of getting together on these data I think we have both come to understand the situation, particularly as it affects my region and my State, a lot better and I think that could be very helpful.

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Mr. BINGMAN. I was trying very awkwardly to say that we do have an energy policy.

Chairman CRAWLEY. What is it?

Mr. BINGMAN. Well, I can read you my list. I can tell you what this is, what the Government does. I can tell you what decisions the Congress is making, and I think we do ourselves a disservice to say that we don't have an energy policy.

What we are really saying is that we may not have one that we like, but we may have one which is incomplete, or weak, or flawed, but we have it, and we are administering it, and we are impacting the country with it.

One of the great failures is to articulate what that policy is. The administration has not done this, the Congress has not done this.

There was a very deliberate theme that lay behind the President's omnibus energy legislation proposal, and one of the most interesting debates that took place inside the administration was whether that should indeed be an omnibus piece of legislation or whether it should be broken up and repackaged in order to conform to the congressional jurisdictions that would consider the pieces.

The answer was, nobody could figure out who could get the pieces, and it was the President's decision that he would keep it as an omnibus bill because it would then force the leadership of both the House and Senate to react to it as an omnibus bill.

And I think it had some merit, and it caused the leadership in both Houses to take on the legislative debate essentially as a package as well. It began to fray at the ends and come apart during the course of the debate, but I think it is very important that at the front end there was an effort in both Houses to address this whole emerging scenario of important pieces of energy legislation as if it were a package, even though the constituent pieces were slopping all over the congressional structure.

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Mr. GLADIEUX. I think most of us tend to fall into the habit of referring to energy policy almost always in domestic terms, and my purpose is to bring to our attention the international dimension of U.S. energy policy. I am referring to things like our whole strategy with respect to OECD, the sale of nuclear plants, our U.S. technology and actual structures and productive facilities in various parts of the globe, or such things as the purchase or barter of liquefied natural gas from the Russians and so on.

These things all have an effect on our basic U.S. posture, our strategy, and they are directly related to our domestic policy, domestic energy policy.

My point is, as strong as I feel about a DENR, when you talk about U.S. energy strategies you are transcending even a DENR. Our energy strategy is a basic part of the considerations of the State Department, it gets into everything from the Department of Commerce to the Department of Agriculture. At that strategy level only Presidential participation and Presidential instruments can effectively deal with the course of our destiny in the energy picture from here on.

So, my message is: I strongly believe in the DENR, but to consider the policy, energy policy, is going to be settled by DENR is just fiction. They are going to have a large part in it but my main purpose here is to say when we talk about policy, let's talk about it and let's think about it in terms of basic national strategies, including the international dimension and not just whether we should go in for windmills or tidal power or whatever it may be. It is much, much broader and much deeper than that.

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Ms. Rastatter. I would like to expand a little bit on the importance of conflict in all of this, and relate it a little bit to policy and to operating functions.

I think policy is an elusive goal. It is something that emerges over time, it emerges over public debate and conflict and it emerges out of input by a number of different factors, not just the executive branch. It emerges from the Congress and the Executive coming to some sort of accommodation, but with the public and special interest groups interacting and all of that, and part of the way in which policy emerges over time and changes and continues to change over time is the debate that takes place by the experts among themselves, and conflicting interests.

The fact is that a number of elements of our energy policy may not be mutually exclusive but may in fact have contradictory problems on conservation and resource development policy, as the obvious example * * * And yet, depending on whether conservation policies lead the way or resource development policies lead the way, you make a variety of kinds of research decisions and public and private investments decisions that will differ, depending on which policy is taking the leadership role. To internalize the debate between these very important policy objectives in one agency is to withdraw from the public purview a lot of the information that those people who are involved in making policy need to have and need to be aware of. The fact is that when things are buried in an agency, they have to work their way up to an agency head, and it is only historically through things like frequent information leaks that a lot of debate does get out in the public.

And I think, Congress, to approve a plan that internalizes a lot of debate into one agency would be cutting off its own nose to spite its face.

Chairman Crawley. I think we want to come back to this. Your basic concern and position is that if policy formulation and responsibility is vested in a single department that many other factors and institutions and agencies will be likely excluded from a role in that policy formulation policy.

Ms. Rastatter. No. My basic concern is that policy can never be formulated in a single agency, and that in fact policy emerges not only because of legislative decision but also because of the way in which operating agencies interpret their policy, so that to say that you can put policy here or there or somewhere else is never going to work, unless you structure the whole thing * * *.

Mr. ORLANS. How serious is your fear that a concentration of functions in one department will limit public debate? Is not the Defense Department a prize example of where each service supplies information that will do in the other service to the public? And I would contrast that with the situation in the AEC. At least in the old days where you did have, I think, an exclusion to the public.

Ms. RASTATTER. Well, I do think that it is possible through leaks that one department gives about another department, that you get some of the debate on the outside.

I certainly do not see the Defense Department or any elements of the Defense Department advocating cutback in certain kinds of arms programs. Information comes out of the Defense Department concerning whether or not certain arms strategies should be pursued. It comes out anonymously as leaks or whatever. I do not think that you can use the Defense Department to make an example of an agency that gets out any internal conflict.

I guess my perspective of the Defense Department is, although the different services may have debates about which service gets more money or more arms or more equipment or whatever, they certainly have a common defense posture overall, and I do not think we have the same kinds of—you have territoriality problems in the Defense Department and they are the same things as mutually contradictory or a conflict of policies.

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Mr. FINGER. First, in relation to policy, this is a point that keeps coming up, we do or we do not have a policy and it is never clear to me what is meant by policy. And by that, I really mean the detail to which people expect the policy to go.

If I look at policy in other areas, I find every national issue that we face greeted by contradictory policies and programs and in some way we balance things out reasonably well by that, because there is not one line of approach that can be taken in any issue or area where there does not have an influence or somewhere else where there is another policy that has another area that contradicts with the policy in a particular issue, so I have great difficulty in understanding what that is now.

I tend to agree with Mr. Brooks that I think we do have a policy, and I think it has been a changing policy and I will give it to you in kind of nutshell as I see it.

I think at one time we had a policy that said we want to be sure we have an abundant supply of cheap energy. Then with time we have changed that to saying we want an abundant supply of cheap energy produced cleanly.

We changed that now to say we want an abundant supply of energy that is as cheap as we can make it produced cleanly and it is secure. And somewhere along the way (I tend to agree with you, Ms. Rastatter) now conservation has been brought in and how that is added to those four words that I list as policy, I do not know, and I can go a step below. There is just no question that one of the issues that is raised by that policy, is we want to minimize our dependence on foreign oil and gas, and I do not think there is any question on that.

That is where conservation, by the way, I think comes in very, very strongly as well as a dependence on available resources and advanced systems that may be available forever, the Sun and so on.

Anyway, from that point I want to make a point. I think we do have a policy, but it depends on how detailed you want to be in enunciating it. In terms of projection of energy demand, I think any notion that there can be a single projection is too simplistic. I just cannot buy that.

The reason I say that is that the projection of demand is influenced by too many factors that no one really fully understands nor can predict. No one can predict what the economy of this Nation is going to be for the next 6 months or a year or certainly for the next 5 years and there is no way of predicting energy demand without knowing what the economy is going to do.

Similarly, price has a significant effect. There is no way of predicting the price of energy which implies somehow knowing what forms of energy are going to be used, what systems will be developed, what their costs will be, what inflation rates will be and so on.

The world factors are also significant in this. And I do not see any way of ending up with a projection. You know, even the Census Bureau which tries to predict what the population will be with pretty well established stuff for the next 15 or 20 years ends up with several projections and we plan on that basis. I think it is prefectly appropriate to plan our actions based on a variety of those projections.

Let me add one other thing. Nobody has developed modeling of energy demand to such a precise science that there is any way of getting a projection that all of the modelers would agree is the right one. I think this country has gotten into serious danger by projections, demographic and otherwise, that were wrong, dead wrong, and the urban areas, I think are a good indication of the problems that we faced along those lines.

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I just think it is inevitable that we are going to have a series—we have to develop in Government a series of cross-matrix systems.

Mr. GLADIEUX. Horizontal?

Mr. FINGER. Horizontal systems, in some way, right. A matrix organization of some kind. The Energy Resources Council may not be the most effective one around, but that kind of thing I think makes good sense and maybe it has to be more specific than that but that is the organization that fundamentally has to serve the President now. Our history is not good on that subject. But that is the problem we have to face, I think, in governmental management.

The President cannot do all of that himself, with some little staff sitting next to him. Th Energy Resources Council, I agree with Senator Percy, does not have a staff. It cannot do very much. Well, it ought to have a staff. Now, maybe the staff ought to be drawn from agencies that are involved in the work. I would be very worried if it were set up as an independent body, I think it has to be a part of those agencies.

I think the problem we have had with that kind of organization and particularly, let's take the Domestic Affairs Council as an example, you have a batch of equals, no one who is prepared to give up anything, each one of whom really wants to make decisions in his own area himself, and they only bring to that forum things that will be noncontroversial.

Well, that process, I think, just has to change. But this horizontal structure just has to be in there, probably at quite a few levels, to face major policy questions.

It seems to me that it is out of that that the President develops national policy in this area.

Chairman CRAWLEY. A significant first step in your formulation would be the creation of something like a DENR as a beginning.

Mr. FINGER. Yes.

Chairman CRAWLEY. Then adding on all these other mechanisms, processes, relationships that you have described, but basically you would support the notion of a single department?

Mr. FINGER. Let me raise a concern I have which no one has mentioned.

I have a great concern about the caliber of people that are put into these organizations and the one thing that worries me about a conglomeration of functions is that the level of people you may be able to attract to each of the functions may automatically be lower if they do not or cannot say, I report to the President.

I do not know how to cope with that but I think it is a real issue. There is the counterbenefit though, you then at least remove some of these functions from the political framework. You do not remove them from the political framework, you remove them from a politically oriented individual trying to determine which way he is proposing to set a policy.

I am concerned about the people problem in all of this, but I am not sure how to face that.

I think that the stature of government level has gone down already by some of these conglomerations and I think this might hurt that.

Chairman CRAWLEY. The other side of that coin is, you have a very substantial number of persons reporting to the President, the opportunity for mischief grows and grows and grows.

So we ought to come back to that.

Mr. FINGER. My tendency is to say, Yes, I support the idea of combining some of these things into whatever you want to call it, Energy and Natural Resources or something else, but I have an uneasiness about it as well.

Chairman CRAWLEY. Dr. Hitch?

Dr. HITCH. Why don't I pass at this time?

Chairman CRAWLEY. All right, fine. Mr. Warne?

Mr. WARNE. I would like to make a few observations. I am not sure that they are pertinent to all that has gone ahead. Ours is a workshop on government organization for energy affairs and I can see readily how we can organize to perform functions, but I do not see how an organization can be created to house a nonpolicy and it seems to me that that almost says that you have to proceed on the basis of a policy before you have created an organization. Or deliberately creating an organization to formulate and manage policy.

Now, on the subject of the DENR, I, in my experience in the Federal Government a good many years ago, was in a department that at that time, the Department of the Interior, had the responsibilities for some of the energy programs that were in progress then.

I feel very strongly myself that an energy program that might be separated from the Public Lands Administration or the principle functions of administering waters will create more problems than it will resolve.

In other words, the interaction of energy programs on water and land programs are such that I believe that they ought to be concentrated in a single organization. Most of our unused energy resources at the present time are on the public lands and in the area where water is increasingly critical as a resource in the West, the waters are also administered in the main by the Department of Interior and I cannot see how the oil shales of the Colorado River Basin can be developed or utilized without impacting and impinging upon the already seriously overcommitted water resources of that basin in a way that is going to require resource tradeoffs. It must be administered in my judgment by a single agency, if we are going to avoid utter chaos.

So I feel quite strongly that the functions which are going to be housed in Government in Federal agencies ought to be coordinated within a single department.

In other words, the DENR. Now, we talked some about the data collection.

I have here a report which I had not seen before, the Committee on Appropriations of the House of Representatives Special Survey Staff. In March of 1976. In which they made a study of the energy data collecting systems, and those of you who believe there ought to be more than one, will take comfort in this I am sure.

They discovered 108 data systems, which required a total of 223 forms and bring in 1,462,000 responses. These are within the Department of the Interior, Bureau of Mines, 37 systems; the Geological Survey, 22; the FEA, 40; ERDA, 3; FPC, 3; Department of Commerce Bureau of Census, 3.

And all those forms have been approved by the coordinating agencies as well, the OMB, the GAO, so you can be sure they are all nonduplicative, I should say. I think I will leave that point right there.

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Chairman Crawley. Thank you. Mr. Cooper, you started us on these discussions. Let us come back to you.

Mr. Cooper. Thank you. Thank you also for ignoring my hand for the last 10 minutes, because it gave me a chance to think.

Let me take a minute——

Chairman Crawley. The Chair is a hard place.

Mr. Cooper. Let me take just a minute to see if we can get some perspective on really what we are talking about. You know, the things that we are addressing are really quite new and I think that means in the first place that many of the propositions, the theories that we have been talking about are basically not tried. It means that there is very little experience to document much of what we are saying, and it also means that I guess that we have to have a great deal of humility about some of the generalizations we are making.

For example, it has only been recently, I mean, really, yesterday, literally yesterday, that we have been conscious, perhaps not some of the people sitting around this table, but many of the people in Congress, many of the people in the media and so forth, that the days of abundance in this country are over.

Now, this is a very important, traumatic effect that we all must recognize. We have, each of us has experienced, in the past several years, the psychological and physical business of crossing the threshold from abundance to what appears to be scarcity.

Now, this is something very new for this country. If there is any characteristic that you could say was a national characteristic it was that this was a nation and a society of abundance. It apparently is not, at least it may be once again perhaps in another century, but surely for the period that we are grappling with we have to address questions of shortages rather than being comfortable with the thought of abundance.

Now, what does this mean? It means, among other things, that we become conscious of the very questions that we are talking about, and many of the issues that we are talking about today would never have concerned anybody 5 years ago. Surely the energy thing would not.

Now another thing that I think is relatively new is sort of a philosophical, intellectual approach to some of these questions. Mr. Finger points out that what is really needed is some sort of horizontal cut across the Government to grapple with some of these questions, but this is a relatively new idea. We have just become conscious that many of the problems we are addressing do not lend themselves to a solution by a single discipline, and this sounds very obvious, but it is rather a new concept and it makes life very difficult for us because over the past century we have become more and more specialized, not less and less, and the universities are creating not economists but sort of subcategories of economists.

It makes life very difficult. Not simply as you try to address the questions intellectually, it makes life difficult as you try to address them operationally because the governments and our departments have intellectual disciplinary biases. We find most of the economists in Government and in one part of the establishment and you find most of the sociologists or the political scientists in others. Aside from anything else, jurisdictional responsibilities have grown over our history in each of these departments, with great traditions of jealousies and sovereignty.

So, let us recognize that we are really talking about something that is very new to us. Now, one of the important things that is new is the fact that cheap energy is gone and I agree—and I will get back to this in a moment—that you know the long-range projections are very risky, very hazardous. Long range might be anything from 5 years out. They are very hazardous.

But it seems to me the one prediction that can be made is that the days of cheap energy, where energy was a trivial element in an individual budget, a trivial cost element in the cost of production, those days are gone. Maybe they will come back in a century or two ahead, but in terms of the period we are dealing with, historical curves with respect to energy costs, and probably with respect to energy use, are no longer applicable.

Now, let me get to a few specific points. Mr. Finger talked of several ideas, several examples of policy. I think I would quibble, if not quarrel. There is a difference between a goal and a policy. We can announce a goal A goal is clean energy, abundant, as inexpensive as we can get it. Now, that is a goal, simply, a national goal. Now, with that and 40 cents you can get a ride on a Capital Transit bus or a Metro bus. You cannot get very far with that.

But from that goal, which is really not even a goal, it is an aspiration, you have to somehow reduce that to something. You have to politicize that. You have to make it operational. Where do you go from there? And it is that kind of issue, that sort of thing I am talking about when I say what is our policy? I know our policy is to have abundant, clean, cheap energy. But what happens after that?

How do the chaps who have the responsibility of somehow achieving that know where to go?

Now, one aspect of that, I think, is you have to make some basic decisions. Are you going to reach this point by cutting down on demand or increasing supply, and to what extent are you going to try to do both? Now, the point has been made, where does conservation fit in?

I will tell you where conservation fits in. It does not fit in. The Sierra Club and the conservation foundations can do all the talking that they want to and I am right with them, but you are not going to get much conservation as a result of Sierra Club activities and some moral choices, you know, should you walk that mile to get the Sunday paper or should you get in the car?

You get that kind of conservation when you have another calculation. Is it going to cost you a lot to do it? You begin to turn lights out, in a room that you are not using, when you pay the utility bills, not the landlord. And you see that the utility bills have become very damned hard as opposed to trivial.

Now, that kind of conservation is going to be, in effect cost-induced conservation, is going to be very effective. Now, why is that not being done? Because it is a political issue, that is why. It is not done this year because it is an election year.

And it will not ever be done if it is regarded by Congress and an administration as a very dicey political issue. And so you fiddle around the edges and you make the right speeches, but we will not ever really have conservation in the use of automobiles until somebody slaps on a tremendous tax—well, first of all, on gas, really market-priced gasoline, and second, somebody slaps on tremendous taxes on use of horsepower or whatever. Then you will get some consequential conservation. Not until then.

Now, let me get to one or two other points. A question was raised about data collection. Obviously, you do not want to have one man in the backroom doing all of this stuff but let me remind you that the Bureau of Labor Statistics has been very successful in developing and consolidating data for a certain part of our economic system. It is probably much more effective than if this were done all over the place. Energy-related data, I think, would be more effectively developed if we could in a sense centralize it so that you attracted people who became very skilled at this so that every time there is a new agency that did not have to begin at the very beginning, and think that history had started on the day that they arrived.

Let us talk about single projections. First of all, I am quite aware of the risk of long-range projection. And somebody once said that if you begin to predict anything 10 years out you become an astrologist. There is no question about it.

But let's face the reality of the problem. The energy question is a long range question. R. & D. problems require a long range leadtime. The issue of whether you are going to concentrate on solar energy or concentrate on fusion, we are talking about decades, not years.

And if you are going to have any kind of a sensible policy then when you deal with these kinds of problems somebody has to make some projections to go beyond the next 5 years. Now, these projections may have to be modified and reviewed and with tension as to how they are reached, but I would assume that you either have the choice of working blind, in the dark, or having some set of generally agreed upon guidelines and milestones.

The thing that I object to about a host of sort of official projections of demand is that when you talk about R. & D. policy or when you talk about conservation policy, it makes a very big difference whether the Government is operating on an assumption that in the year 2000 this country is going to be using 170 quads or 110 quads or 90 quads or 130 quads. These are big numbers that we are talking about and they make a big difference in terms of how you plan ahead, and incidentally this is about the range of Government projections.

Now, none of these projections may be right, but at some point some wise men have to say, well, of them all, and we recognize the dangers, this is the one that we accept as the most realistic or probable at the moment, anyway and this is the one we are going to plan against. One other point about a single department.

You know, the business about small is beautiful and big is bad, that is a lot of baloney. It is sort of a cliche. It is cheap kind of conversation. But there is no sense kidding ourselves that unless we develop some new techniques of management, merely grouping these things into a large organization is by itself not going to do the trick.

The head of HEW or at least two secretaries of HEW told me that so far as they knew nobody in HEW had ever read the HEW budget, I mean carefully, to say nothing of anybody else outside of HEW reading the HEW budget and getting a feel for it and getting a handle on it.

When you talk about these big Departments you are talking about somehow having somebody get these issues under let alone managerial control, under some intellectual control. Now a parallel effect of the business of sort of tidying up all of this has got to be developing some techniques and better managerial controls.

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Mr. FINGER. If I can make one other comment before we leave that on conservation. I think you have to consider the several different approaches to conservation.

The one that is technological and appropriately is an R. & D. agency and reflects ERDA's definition of their conservation activities, is the one that is based on trying to improve the efficiency of either supply or use of energy. That is a technological issue, and that is in their charge. And when they say conservation, that is what they are talking about.

That is not all of conservation. and there is no single agency that has a responsibility for conservation that is nontechnological efficiency increasing.

I don't see any way but to distribute that through the mission agencies that have responsibility for housing, for transportation, all the other functions that are required.

So I think the idea of distributing it as a necessary requirement in each of the agencies is almost inevitable.

But then there is still an overriding one. A big part of this is tax policy, pricing policy and so on. Now that base I think also ought to be in this agency, the control of prices and so on, in order to try to reduce demand.

If you say the objective of this agency would be to assure that the Nation has the energy it needs, it must consider supply as well as what the demand is. Adjustments in demand are an important factor.

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Mr. STEADMAN. There is something I have been wanting to say, and that is, we are supposed to be talking about industry and the public. And we have just begun to talk about industry.

And I wanted to take a specific example in the oil companies and the resources that are represented in the oil companies, the enormous resources which, if they could be turned in the direction that would be useful for the public interest, would be tremendous.

They have enormous resources. Since the embargo, their profits have been at levels never before witnessed persistently for the 3 years since, to the point where, for example, Mobil Oil Co. has been able to buy Montgomery Ward, and Atlantic Richfield to buy Anaconda Copper.

They have enormous resources. But my point here is that their interests so far in the long-term development of various forms of energy have been very, almost sympathetic. As long as you can talk about something 10 years or 20, or 40 years away, I think they will be quite sympathetic, and especially if the Federal Government pays for the research and development costs, so long as you do not reduce the market which they enjoy.

Now the idea that everyone favors conservation does not apply to the oil companies, nor could it. It is unfair to expect it to want other than an expanded market as long as prices are favorable and the operation is profitable. They favor obviously not a reduction in the use of oil, but an expansion.

Now my point here is that if you were to reduce that market to the point where they needed to use their resources in some fashion, alternative if you like, to the dependence on oil and the foreign importation thereof, then that would be a redirection of their resources and energies in harmony with the broad public policy.

Chairman CRAWLEY. There is one incredible phrase in what you said.

Mr. STEADMAN. May I finish?

Chairman CRAWLEY. Go ahead.

Mr. STEADMAN. I would like to offer a very specific example of how a very large saving could be made without big expenditures, and it lies in the consumption of oil in the electric utilities.

I have reported this to you before, but let me just state what the upshot is. The electric utilities in this country have enormously expanded their capacity in the last 3 years, far above any increase in demand, and that includes the increase that has occurred this year as the depression has moderated.

The capacity of the electric utility industry is sufficient to replace the whole burden of this 1,500,000 barrels of oil burned each day in those oil-fired plants. After you take account of transmission problems and the rest, a very large share of that could be saved.

I must offer one further point. Apparently an even larger amount of oil is being burned in the refineries themselves of the oil companies, and there are a dozen other fields where there can be a reduction in oil usage without severe unreasonable inconvenience to the community, and without cost.

Now if this were done, and there are devices which are very suited to such an objective, then the dependence upon foreign oil would be vastly reduced and the attention of the oil companies would be directed to the need to substitute other effective means of the development of energy useful to the community, and they would be in line and in harmony with the national objectives.

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Chairman Crawley. Let me ask one other question. The creation of a DENR brings together an enormous concentration of power for good or for bad. Does this potential disturb anyone?

Ms. Rastatter. Yes.

Chairman Crawley. It disturbs you?

Ms. Rastatter. Enormously.

Chairman Crawley. Why?

Ms. Rastatter. We have been discussing it for the last couple of days. I don't think there is much new to be said.

I think diversity is an essential element of public debate, diversity and advocacy between agencies. I think a lot of public debate would be cowed within the context of a single agency, and it is essentially the same reservations that Mr. Hitch presented.

And I guess I would like to add one further thing about that. I forget who it was, perhaps it was Mr. Dean, suggested that there were so many outside forces that would bring forth this public debate that we didn't have to be concerned about the debate being internalized between agencies.

Well, environmental organizations, public interest organizations, this part of the public debate spectrum, are frequently dependent on the information raised in the interagency debates to key them to where particular problems lie and where particular points of information are if one wants to get hold of them.

For instance, environmental organizations will frequently depend on the Environmental Protection Agency's review of another agency's environmental impact statement to key us to the particular environmental problems that may be involved in a given Federal action.

And that is just one kind of example, one with which I am most familiar. And I think that level of debate, that level of advocacy between agencies would be very important to us, and I think that investing in one person, one secretary the essential authority for determining the way in which debates within the agencies are resolved is incredibly dangerous.

There are too many competing elements to a national energy policy.

Chairman Crawley. And you are afraid that the decisional policymaking will become much more closed than you would like to see it?

Ms. Rastatter. Among other things.

Mr. Gladieux. Let me say quickly in response, bigness doesn't scare me. I don't think you can organize the Federal Government on the basis of what I call the confrontation principle.

If you go down that route, you want several presidents, and we aren't going that way.

But I wanted to say something on the subject we will be coming back to this afternoon about reorganization, DENR, and so on. I don't think those of us who, first of all, claim to purport to be somewhat expert in the field of large-scale public management, I don't think we have given Charlie Hitch an adequate answer to his skepticism, which is well placed and well expressed.

I wanted to try a little bit to at least express my own rationale here. I think you can claim that a DENR kind of organization would bring better coordination and improve mobilization of the program arms of Government that are essential to sound energy policy formulation and implementation.

So there is something on the coordination factor. I think you can claim that that kind of organizing principle does shelter the President from this continuous pressure to reconcile frequently minor issues of policy and administration on particular programs and projects.

My point is that when everything goes to the White House you get the wrong people making the basic decisions.

Third, I think you can claim that kind of organization does give some assurance that these basic tradeoff functions are exercised, that that function—the tradeoff function—is exercised at program and project initiation levels rather than waiting until everything was all ready and then you come to the conflict and resolution.

But even more than those things which are kind of on the management side, I think we have to move away from this clientele form of organization in the Federal Government. I am talking about Labor and Commerce and Agriculture and Interior. The special interest groups like clientele organization, they think they can own, and frequently they have owned, these Departments.

I want broad-based, broad-missioned departments serving the total public interest and not a special interest. And my observation is that the special interest like the clientele forum, they know where to go, they form liaisons, and they get their way. And I am against it.

This is at least part of the rationale, both management and political democracy, if you want to call it that. These are the considerations that lead me to a DENR, and I would hope, Charlie, that would help you a little bit in your legitimate concern.

Ms. Rastatter. With all due respect, sir, I don't believe that changing the box is going to change the basic fact of life that agencies tend to develop clientele no matter what they are.

Mr. Gladieux. I want to broaden clientele.

Ms. Rastatter. If agencies have a mission, certain elements of the agency often tend to dominate, and people who perceive the agency's mission to be in their interest are going to support the agency, are going to be very involved with the agency, and eventually are going to be a part of the agency's clientele.

I don't see that it is such a bad thing despite the fact that environmentalists don't tend to be anybody's clientele. I think EPA, as a captured agency, probably represents an agency that has been captured by the State agencies rather than the environmentalists or by industry.

But what I am trying to say is that it does happen, and I don't know of any agency that has not been in some way captured in someone's viewpoint by some clientele.

Ms. RASTATTER. Let me just make one final statement. You know, perhaps there has been some misunderstanding of what I said, because to me DENR is a word, or a series of phrases, and it is meaningless unless you look at what has been put under it or what has been put into it.

So when I say that I have severe reservations about DENR, I am taking about as it has been discussed and proposed and supported by some people who have sat around this table. And I think there are some organizing principles of agencies that are not being considered, and it would have to do with advocacy and conflict.

That does not mean to say that I am opposed to any reorganization of the Federal bureaucracy along somewhat meaningful lines. But I just think that some of the consideration concerning conflict of interest between agencies, that the agencies haven't been getting in adequate measure. So I am not saying that Interior should stay as it is, or Commerce should stay as it is.

What I am saying is that the DENR proposal as I have heard it discussed around this table today and yesterday, I have a lot of reservations about it.

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Ms. RASTATTER. I find myself whenever I go to meetings like this, someone eventually says we have to stop talking in an adversary position, and it is inevitably after, depending on the type of meeting, it is inevitably after the point at which I have said that environmentalists have a legitimate perspective to perform and want an opportunity to advocate their perspective.

The fact of the matter is that given the best of people and the most intelligent people all of the same kinds of information, and depending on the value judgments that they hold, they may come to completely different conclusions.

And what you call an adversary process I may call a dialog. And I think that that adversary process or that well articulated dialog is one of the most important parts of our political system. And maintaining the quality of that adversary process or dialog is one of the things that I want to insure in any reorganization.

FEDERAL-STATE RELATIONS

Chairman Crawley. At this point I would like to ask Commissioner Brooks to make comments on the role of the regions, States, and cities with regard to energy matters.

Lynn Brooks is the commissioner of the Connecticut Commission of Planning and Energy Affairs. Lynn?

Mr. Brooks. Thank you very much. I must admit that I had a hard time trying not to jump into that discussion preceding but a lot of the things I am going to say have been touched on in one form or another and I am going to go through it again and I will hopefully toss out some new ideas and if they seem to be theoretical or perhaps naive, perhaps you can excuse it on my tender age and the fact that my experience is rather limited in terms of actual Government experience. Although I must say that the 2 years I have spent in Connecticut State government I have been in a constant state of organization and reorganization and I have had to design literally and organize an energy organization for the State and then turn around and merge that with the office of State planning to create a new department of planning and energy policy—

Mr. Kloman. Which I believe is the only one in existence of the 50 States.

Mr. Brooks. The only one in existence in the 50 States but there has been a tremendous amount of interest among the States in terms of this kind of approach.

I want to say that after 2 years of intensive government interest and activity in energy and before that a full 10 years of personal interest and including a lot of practical experience as an attorney working in the field of both regulatory and representing a lot of companies, I have some definite views on the subject of energy which underlie a lot of the things we are talking about.

And the first thing I would like to say is I think energy is pervasive. We must remember that in terms of everything we talked about particularly concerning how you organize for solving some of the problems associated with energy.

It is an allocation, a resource allocation problem and the only analogy I can really come up with to begin to describe the pervasiveness as far as I am concerned is World War II, because World War II touched everybody just as energy touches everybody and I think you can be very simplistic in analogizing energy problems and for example the space problem. And I hear that all the time, if you put a man on the Moon in 10 years why can we not in effect solve our energy problems in the same way.

The answer is, because they are completely different. In the space situation, you allocate a lot of money, you take one contractor, you give him a bit of land in Florida and say make something that goes boom and you put him on TV and we all enjoyed it, had a heck of a time doing it and it had a tremendous effect.

When you are driving to work in the morning, it does not enter into your problems of the day unless you are directly involved. It just does not affect people every day in terms of the way energy does so I think you have to be careful in terms of your analysis. I think the reason this discussion today is crucial is because I think that energy is the forerunner of a whole series of resource allocation problems that are going to be confronting us and the manner in which we handle the energy problem and the manner in which we organize and reorganize and learn to handle the problem I think is going to be extremely important in terms of questions that are coming down the road because these problems I think as we are beginning to see are going to become more complex rather than more simple.

The other aspect that we are running into from the State and regional viewpoint I think which is extremely important is how do you relate to the public? On this kind of complex issue? You cannot go out and blitz them with propaganda or educational materials of any kind and have them get the depth of knowledge that perhaps is necessary for a lot of the critical decisions that are going to be had to get the kind of public acceptance, and to use an example of this, the 55-mile-per-hour speed limit.

Senator Percy was very eloquent in saying this is a thing he feels the States are not cooperating with the Federal Government on.

I will tell you in my State the arrest record is up like eight times over what it was pre-1973 and we feel that the only possible way we could begin to get any degree of enforcement with this speed limit is to probably quadruple our State police, but we cannot do that. Physically, it is just impossible for us to do that physically. My question is, do you have something that is like prohibition? You know, laws in this country have been successful in my view because they have been accepted. People have been voluntarily by and large agreeing to abide by laws and until we can get to the point where 55 miles an hour is acceptable in the same way we are not going to get enforcement.

So, I think we have a real problem on our hands in terms of the public, in terms of getting them to understand an extremely complex subject matter and I think that is something we have to keep in the back of our mind as we address the organizational problems.

Now, I am one who happens to believe that reorganization or organization does not necessarily have to take place to become more effective in doing this. I do not think you should reorganize just to reorganize although in some cases that does produce certain benefits but there are tremendous costs in terms of organization and reorganization and I can attest to that. As I said, for 2 years I have been involved in it.

It has probably taken me somewhere on the average of 35 percent of my time for the past 2 years working on organizational and reorganizational problems associated with budget, associated with personnel, associated with kinds of legislature to get bills through to accomplish it. I would say that for someone who is the principal adviser to the Governor in terms of comprehensive planning and energy policy, that is a lot of time to be spent simply to reorganize, unless there are significant long-term benefits, it might not be worth it.

The other thing that happens in terms of reorganizations which I see in terms of, for example, at FEA and ERDA is that there is a tremendous delay built into that new organization getting going and being able to function. If you were ever in the ERDA offices and saw the proposals piled on their desks you realize that there is a tremendous cost in terms of delay to get some new organization going. I think those costs have to be balanced off against the advantages that are going to accrue which brings me to the question of timing which I think is a very important element in terms of reorganization starting where we are now.

How do you get to where you want to go once you see where you want to go and I would say that if you look at it in terms of short, mid- and long-term kinds of things I would say at short term you perhaps want to go with ad hoc kinds of horizontal coordination such as the Energy Resource Council. It may not be the best thing in the world but hopefully, at least, it is a beginning of a horizontal cut at a lower level than what perhaps we previously had and I was thinking, Mr. Cooper, when you were remarking about the fact that this is a new concept, it is really not a new concept. I do not think anything we are talking about today is really new in the sense of organiaztional theory.

As I recall in this country, George Washington had a Cabinet. The Cabinet was designed to try and coordinate policies between at that time the Secretary of War, Secretary of the Treasury and Secretary of State. Things have gotten a lot more complex since then but that was a horizontal cut.

I think what we are talking about is what level you go to in terms of the horizontal cut and we very seldom have ever gone below or utilized that horizontal cut, I think, very effectively. We still have a Cabinet in this country. You know, I do not think it works effectively particularly but I think that is a horizontal cut, and I think we need to look at ways of utilizing that a lot more effectively. But short term I think we need to go with more of the horizontal kinds of cuts and try then to evolve into the kinds of organizational things that you think you want to go to on a longer basis.

I give my staff a speech periodically because I run into this problem myself within my own organization and I tell them that organizations are created for convenience. They are black lines drawn in extremely grey areas, and you always have to remember that, and that line shifts.

We were just remarking during the break about the Department of Interior and how when it was founded it had a certain group of departments within it and when they had their 100th anniversary they looked and none of them were still there, and none of the ones that were there at that time had been there originally. I think that is a sign of that line shifting in the role of a particular department in a grey area.

I have to tell my people that because I happen to be a very functional kind of an administrator. I try and look for the strengths of my various people and put ad hoc groups together within my department all the time to study specific kinds of issues which bring into a disciplinary approach to that rather than just saying, well, this is in a certain area therefore it has to go to a certain guy because he is in that particular department. I think we need to bring that kind of a concept to our total organization, and that is that horizontal cut that think we have been talking about, but I think it is important to remember with respect to energy particularly because as was pointed out you wrench all of these new departments into a new department of Energy and Natural Resources, you are going to create grey areas between this new department and a lot of other departments, that are still left, for example, Commerce.

You know you are going to have to deal with all of these in terms of the energy problem because energy is pervasive. Which brings me back to wondering whether or not we really need to evolve into a great department like that or whether we need to spend some time before we take that step working on our process, our decisional process in trying to make our Government that we do have work, because I am just convinced that we spend too much time designing ways of stopping our Government from working rather than trying to get it more effective and make it work better.

And I say this as an administrator, thinking particularly of the Civil Service System and thinking particularly of a lot of our rules and regulations that we put up.

We spend a lot of time in my view trying to keep bad things from happening and in the process we just create a complete inability for agencies to do anything or to do anything particularly meaningful. There is an inherent distrust I think in people who are appointed by officials and a lot of our rules that I see at a State level particularly are designed to prevent the really bad appointment from getting in there and wreaking havoc. But the process of doing it makes the really good appointment who gets in there unable to do anything either because we create bureaucracies that end up having personalities of their own and a new guy coming in has very little chance to really change it.

I have been very fortunate because I hired practically all of my whole staff and I have often told people, they say how long will you stay in Government and I say probably until my senior staff turns over once and I have to start taking them off the list, and then I will probably leave because I will feel that I will begin to lose my effectiveness and I think that is a real problem in terms of organization and how we do it.

But to get back. Short term I would like to see these ad hoc kinds of horizontal cuts trying to make what we have now work better and I think that process alone will be where we need to evolve and where we need to make the changes. Over the mid term I would think a specific thing that could be accomplished as we go along is what I consider a crucial step between the regulatory and the policy formulation kinds of issues. As I pointed out to Mr. Gladieux on the break, I do not have any problems with the regulations and policy being in the same department, if at the same time you do that you can transform the regulatory function from what it is now to something better and I think that can happen. But if you look at the fact of what it is now, I think that if you put policy formulation and regulatory powers together the regulatory power will drive the policy formulation and we end up with what I consider to be a case like the Atomic Energy Commission, where clearly the regulators were the ones who were driving the decisions being made on the policy side. * * *

I would like to make a pitch here also for something which has been proposed. It is not original with me, certainly, but I agree with it 100 percent. That is, I think every regulatory agency should have a limited life which requires at the end of that time that somebody in Congress particularly reexamine the mission of a particular regulatory agency to see if the situation is still the same, and see whether or not that agency has in fact fulfilled its mission.

Now, recognizing that in most cases a lot of them will be continued I think that a value to the process is worth something and it gives a lot of interested groups an opportunity to come and present their case as to whether or not the agency has been fulfilling its mission or not and whether or not it should be folded in some other group or whatever.

Finally, over the long term I think you then can evolve through this kind of a process into some kind of different organization which can accomplish what you need for the particular change in times. I think here the key is that if you have evolutionary change as opposed to a revolutionary kind of change, you have a much better chance of relating to the public as you go along and a much better chance of carrying programs over to continuity and you avoid that costly delay much more than you do if you just create a brand new agency out of nothingness. Again, I look back at FEA and see what problems they had and remember when I was dealing with them first. I would come down here, I was down here four or five times a month and there was one period of 3 weeks in a row where I came down to see one individual and he was in three different offices. And it is still happening. But I had to hunt him down every time.

Mr. Cooper. At least he is still there.

Mr. Fingers. No; he is with other people now.

Mr. Brooks. The point is, there was a tremendous cost involved in terms of all that time of when you just create something out of ashes.

Finally—well, not finally. On the organizational aspect I would say that in my view people are more important than organizations per se. I have seen every State—I deal with the National Governor's Conference on their Energy Committee—every State that is represented there and there are 12 of us, all have different organizations. We all do a lot of the same functions but we are all organized differently and if you look at the States that are effective and there are a number of them that are, they have completely different organizations but they end up at the same place oftentimes. If I can look at one single reason why, it is the people. It is not so much how they are organized, it is the people who are there and their attitudes and how they are working and I think that is something to keep very much in mind. Mr. Finger's comment about people and his concern over the quality of them and so forth is something that I share, a concern that I share. As you get bigger and bigger, the problem you have, I think, is the quality ends up going lower and lower and although I realize it is not probably within the purview of this particular workshop I do not see how you can attack this problem on a long-range basis without considering a budget process and a personnel system that we have to work with if you are going to deal with organizations. It is an absolute necessity.

That is even a tougher thing to tackle than some of the political problems associated with conservation because they deal with the civil service and that is a very difficult problem, but in my view if you really want to become effective in terms of organization and make up the work, those are the two key areas that just have to be looked at.

Finally, I could not agree more with the statements that were made about Congress in terms of reorganizing themselves. I think Senator Percy was very forthright when he indicated that his view was that would be a reaction to executive branch reorganization as opposed to something internal within the Congress.

I do think, however, that it is important to recognize that Congress is always going to be organized differently than the executive branch because their function is a lot different. The legislative function, the function of bringing into view all the different divergent viewpoints and reaching some kind of a consensus which supposedly reflects the view of the people is a different role than the role of the administration which is essentially more one of an advocates' role.

I think they are both important functions. The legislative function is extremely critical in my view in this whole energy picture because out of that legislative role comes the consensus upon which you can get the consent of the Government. If you do not have that process, you are going to have more things like the 55-mile-an-hour speed limit than you have now.

It also presents, I think, a much better opportunity for the public participation in that process than there is in the executive branch, because the executive branch attends to the more closely held, you do not have as many people you can get to, you oftentimes do not know who to get to. Everybody has a Representative and a Senator and so forth.

I think if Congress needs help it is in the area of being able to cope with the volume and flow of information and the kinds of things that come out of the administration. I think the Congressional Budget Office particularly is a good approach.

I know we are going to talk about that tomorrow but unfortunately I am not going to be here. I think Congress needs to do a lot of work, but it may not end up being so much in the committee researching, although some of that also needs to be done. I think those interconnections and linkages between the Commerce Committee and Government Operations Committee and the people who are overseeing specific agencies, in my view, are always going to have to take place because of the pervasiveness of the subject of energy.

It is just something I do not think you are ever going to get into a single committee to handle, again, because your Foreign Relations Committee is going to always have to be involved. * * *

Again, I would like to direct efforts as to how do we make what we have work, because I think there are some good examples of it working, and we can make it work if we have different attitudes and we are willing to make some very tough decisions.

In the long run, I am not anti a Department of Energy and Natural Resources over the long haul. I would be opposed to wrenching it out of what would now have to be created. There is also a danger you run in doing that, that many people will simply say they are the group that is going to solve our problems, we will let them wrestle with it. As Senator Percy pointed out in his suggestion, which I agree with 100 percent, some elements of energy such as conservation have to be an integral part of every department, and every group that is in the Government.

It cannot just be something you look to and say oh, that is ERDA's responsibility or that is FEA's responsibility therefore we do not have to do it. The human rights area has been an area where we have seen this happen particularly.

You create a Human Rights Commission in a State and then everybody turns to them and says you are supposed to get rid of all, you know, discrimination. That is your responsibility. That is your role. And actually, it is everybody's role, I think you know, we view our role as energy policy people in the State of Connecticut as we develop policy which either goes to the legislator in some form to get adopted or the Governor proclaims it or whatever and then it is up to every other department and agency and commission in the State to implement it. We do not view ourselves as implementors. We are coordinators, developers of policy and we are reviewers and analysts to see whether or not it is being developed.

I think there is a need for some agency and group in the Federal Government to play that same kind of role but in this area of energy. One of the reasons why I have concern over one department is that energy is going to be solved by all of us, as individuals, as groups, in all forms of institutions, or we are not going to solve it.

But you are not going to create one big department that is going to do that job all by itself.

On the question of data collection, I think I would point out to Mr. Cooper again the Bureau of Labor Statistics is one of our most important sources of information, and I do not think you would want to see them folded into any big data collection effort, I would not think.

Mr. Cooper. No.

Mr. Brooks. I think what you need, as in my department, is a central data group for the State in the area of energy, but we have gone out and discerned those particular places we can go to get good reliable data. The Bureau of Labor Statistics is one. We get a lot from the Department of Transportation. We have developed in New England a New England-wide energy management information system which is a computer system in which we can take basic data and rearrange it and manipulate it to get the kinds of things that you need.

We have gotten around that problem of the difference between different ongoing programs and the basic data that you collect by using this kind of a system. It has been somewhat successful although we have had to go back to some of the people and say would you collect in addition to the data you are getting now this piece, or that kind of thing.

Mr. Gladieux. Who operates it, Mr. Brooks?

Mr. Brooks. It is operated out of the New England Regional Commission. It is a title V commission. In New England that is the way we have chosen to go. We have had a lot of help from both IBM who has provided essentially the computers and MIT who has done all the programing.

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Mr. Brooks. Contrary to what a lot of people believe, there are some good things happenning with the current organizational system of the Federal Government vis-a-vis the States.

Primarily this is through the National Governors Conference and primarily through their standing committee on natural resources which is energy and natural resources. We have formed with the Energy Resources Council a group called an ICC which is an interagency coordination council, committee actually.

These are representatives from States and representatives from various Federal agencies, with one Federal agency taking the lead. The idea is that they get us involved from the State level in the formulation of programs and policies that the various departments are doing.

There is an attempt to make this work and we have had some success with certain whole areas that we have been working on and we are trying to expand this into other programs.

Now, I just bring this up because I think it is important, is that there has been an effort to get a horizontal cut at the various levels of the ERC with the State people and the local people in order to get a broader input into the formulation program instead of just waiting for the Federal Government to come out with a program and then having everybody react to it.

Chairman Crawley. Well, you have touched on the intergovernmental relations aspect, and I want to push you a bit further in this subject area and I would like to read a general statement and then ask you a couple of questions, and the general statement is this: "Attention recently has been focused on conflicts between the energy policies interests and the powers of State and Federal agencies in such matters as the power of eminent domain, licensing, regulating passage; and aiding the extraction, production, and delivery of fuel and energy." Now, two questions.

Are such conflicts inevitable, or can they be reduced by closer collaboration of State and the Federal authorities in energy planning, policy formulation, and implementation? That is a big one.

Mr. Brooks. That is like, have you stopped beating your wife yet?

Chairman Crawley. Can it be done and if so how do you go about it? Why do you go about it?

Mr. Brooks. The answer is conflicts are inevitable and the answer is yes they can be resolved by a closer working together and a recognition, I think, particularly by the Federal Government, that there is a role for the States to play.

Conversely, I think it is incumbent upon the State that if they want that role then they had better be prepared to develop the expertise and the ability to handle it and of course this is what the States in my view have not done in the past.

There is a growing expertise in the State, however, on many of these issues that I have seen just in one area. I will give you an example.

In the OCS sector, where 2 years ago, practically I think every one of the New England states were adamantly opposed to the development of OCS. I think now if you look at the energy policy statement of the New England Governors and the positions of individual States you will find there is not a single State at this point which opposes the development of OCS.

We have concerns over how it gets developed, we have concerns over what the impacts are going to be on shore and how we are going to handle them financially and socially and what this is going to do to our economy.

We have two States that have recently sent their Lieutenant Governors out to speak to the oil men to urge them to come to their States and stage development for OCS. Now that represents I think a significant shift in the State in terms of its expertise to handle the issue and in terms of its willingness to work with the Federal Government to try and change it.

Mr. Eads. How did that develop? Was it from the Federal Government's side, was it your recognition that you needed a change?

Mr. Brooks. It was both. We did some very good studies, in New England again, through the New England Regional Commission, a six-State study on what the future of the petroleum and gas industry would look like in New England if OCS were developed, what the likely impacts were going to be and so forth.

At the same time the Department of Interior—primarily because of pressure from the States among other things, over their leasing procedures and so forth—formed an OCS policy board which has a single senior person from each State who meets with them on a very regular basis to discuss issues.

I think out of that has grown a much greater awareness on the part of the State people as to what the real issues are and so forth and I think those things have both been combined so it has been a push on both sides to try to educate each other as to our specific problems and out of that has become better understanding of what the real issues are, and a falling away of the chaff.

Chairman Crawley. If I may let me ask the second question.

Are present mechanisms adequate to promote this collaboration or is new machinery and authority needed? You suggested one new mechanism.

Mr. Brooks. Well, I think that depends a great deal upon the issues. We cannot say across the board; yes or no. Certainly the National Governor's Conference and the relationship between the FEA and the National Governors' Conference is an excellent one and I think there we are having a lot of input from the State level and so forth. With respect to the Atomic Energy Commission I would say we are probably going to have to press for legislation and some kind of new authority before the AEC would be even willing to sit down and discuss wnat should a meaningful role for the States be?

Mr. Gladieux. You mean ERDA?

Mr. Brooks. I mean NRC and ERDA both particularly on the safety issues, what is the role of a State and what should it be, should there be a role for the State. You know, it has become increasingly clear to us in Connecticut that we definitely have to have a role because we are being asked to do all kinds of different things with respect to nuclear power. We are being asked to respond to any kind of an emergency that is outside the confines of the plant with respect to terrorism, with respect to hijacking of materials, with respect to fallout if anything should happen in the plant.

We have to handle what happens outside the confines of that plant, not the NRC, not ERDA, not the Federal Government, but the State.

So therefore it seems to me we ought to have some role in terms of what happens, and some role in terms of whether or not we want it. I am willing to sit down and discuss with NRC what should that role be but let me just tell you what happened in Vermont. They had a problem up there and the Governor of the State of Vermont tried to find out some information from NRC and could not get any.

He finally ended up calling Chairman Anders at that time and they had a long discussion about the role between NRC and the State and at the end of that the Governor called a press conference to reassure the people of his State that he had had the conversation with NRC and in fact there was new understanding and the State was going to be more involved.

Simultaneous with that a fairly high level NRC official was having a press conference at Vermont Yankee at which he stated unequivocally that the State of Vermont would have absolutely nothing to say about what happened at that plant. He got mad, in other words, really mad. But I think that is typical of what the attitude of NRC is with respect to the States' role and from my perspective the States have not always been on the side of the angels on the issues either. More often than not they have been much more interested in litigating an issue over the preemption question rather than trying to sit down and really discuss the issues and take a meaningful role, recognizing that there are certain things that are national in scope rather than local or regional.

Mr. Gladieux. I gather you are saying that NRC has no systematic process for counseling with State regulatory agencies, is that right?

Mr. Brooks. It is exactly the opposite. Yes, they have a great disdain and they want to surround themselves with that cloak and say this is our bailiwick and you do not have anything to say about it. I mean, they go much further than they would have to in terms of just regular and ordinary procedure.

Mr. Finger. Yes, but legislation requires that of them.

Well, the legislation gives them the responsibility.

Mr. Cooper. For what? For standards or for implementing?

Mr. Finger. And the act of safety determination when it is appropriate to operate a plant and when it is not.

Mr. Cooper. But I sense that the difficulty—am I wrong?—that the NRC has gone beyond simply the question of indicating Federal standards of safety or whatever and that the problems arise because it is not quite clear who has the responsibility if something goes wrong or how that responsibility is divided.

Mr. Finger. Well, the way I interpret what was said here based on the little I know about Vermont Yankee it seems to me there the determination was one for NRC to make, that it was or was not safe to continue to operate the plant and if they are mad up there, saying, "that is our responsibility," that was legally right.

Mr. Brooks. That was not the issue up there as far as the State of Vermont was concerned, because the Governor of Vermont has no intention of trying to have a hand in the decision of whether they operate the plant or not. What he was responding to was the very real concern on the part of his citizens and, you know if a panic takes place and you are a Vermont Yankee, it is the State of Vermont who has the responsibility for responding to it, controlling it and so forth. Therefore, the state has some responsibility for telling its citizens that they in fact have made some kind of an informed judgment with respect to that question. I think here it is an attitude question more than anything else.

Mr. Finger. Sure. I understand.

Mr. Brooks. The point this dictates from our perspective as States, we think the only way NRC is going to either come around to sitting down with us to discussing some of these issues will be either through legislation or through a court decision, saying that that field has not totally been preempted by the Atomic Energy Act of 1954 or legislation which says that.

Mr. Eads. To try to compare the OCS case to which I think you think there has reasonably been again good consultation with NRC, the State has clearly—by court cases or in legislation—a role to play in one, but it is unclear in the other.

Mr. Finger. In which one?

Mr. Eads. In the OCS.

Mr. Brooks. As a matter of fact the court case on the OCS issue says the States have no role in terms of development of those shelfs out there, but what has happened is that through the dialog the Department of the Interior, I believe, has come to the recognition that the States are going to be impacted.

Second, the States went out and through Congress initiated some OCS bills which talk about impacts and talk about changing Interior's ways of doing business. In order to accommodate a role for the State. Now, the combination of the pressure put on by the legislation and Congress and the dialog that went on has brought the two of us to the table.

Mr. Eads. So you are saying you might need legislation in the NRC area? It would not be to get the legislation, but it might be to get the dialog going. You could care less about what happens to the legislation. That is not constraining.

Mr. Brooks. Exactly.

Mr. Cooper. It strikes me if I may say so that this is more of an institutional problem than a problem of communication. I cannot believe that the commissioners of this NRC or any responsible commissioner of any NRC would not recognize that there is a difference between making the judgments about safety or passing judgment on whether a given plan meets Federal thresholds of safety and coping with. I cannot believe that sensible men would not recognize that difference.

For example, suppose there is a problem in the transportation of radioactive waste. Suppose there is a train wreck.

Mr. Brooks. Suppose a truck crashes into a bridge like we had happen once.

Mr. Cooper. Yes. You know that is not an unlikely possibility. I cannot believe that the NRC would feel that it sends four GS–14's from Washington to try to cope with that problem. I cannot believe that they would not recognize that this is a State emergency.

Mr. Brooks. They are very content to drop that into our laps. What they are not content to do is to give us information so we can decide whether we want to have a plant there to begin with.

Recognizing that we are going to have to cope with all the attendant problems. In other words, all they say to us——

Mr. Cooper. That is a different matter.

Ms. Rastatter. It is part of the same matter having to determine the safety of the plant. There are other varieties of responsibilities. They go with the location of that plant.

Mr. Brooks. Yes; they would like us to accept their seal of approval on the powerplant safety, like a Good Housekeeping Seal of Approval, and once they said, "Yes it is safe," we can say to our people, "Well, we do not have to worry because NRC has said it is safe."

Mr. Finger. I think there is still confusion on this point. The issue of the plant operation and activities is legally with the NRC. The potential impact does go beyond the NRC and population effects, transportation issues, normal policing issues off that site are clearly State functions.

Mr. Brooks. But the decision as to whether a plant gets built in your State is a State question.

Mr. Finger. Yes, it is and the public utility determines that. That is the only regulatory body that determines if there will even be an acceptance of an application.

Mr. Brooks. That is not true in our State.

Mr. Finger. You do not have a Public Service Commission?

Mr. Brooks. We have a public control authority whose sole responsibility is for rate setting. We have a power facility evaluation council who has to determine the need for it.

Mr. Finger. And the rate setting, does not the utility have to come in and indicate what its construction is, what its potential is, nuclear or any plant?

Mr. Brooks. They make a decision on the economics between nuclear versus coal versus oil. That is the decision they make. As to what it is going to do to the rates in the States, they do not make any kind of an informed decision on whether or not the costs relative to the peripheral activity of the State are going to be worth the benefit to be derived.

They make absolutely no decision as to whether or not the land on which it is going to be built is sufficient for it. They make none of those decisions because that is not their charge. They are regulatory and their only charge is rate setting and I think you will find that is true with almost every utility authority in this country.

Mr. Finger. Let me raise a point. I think you have an instate organizational problem, not so much a problem between the State and the Federal Government.

Mr. Brooks. We have no instate organizational problem. Our problem is, how do we get information to make a decision?

Mr. Hitch. As to whether the States can impose stricter safety standards than the NRC?

Mr. Brooks. That has been decided, there is a case already that says the Federal Government preempted the field in terms of site safety standards. There is another case going on in New York City right now which refers more to the public health aspect. I have no doubt but what that will be decided in favor of preemption also.

So those are not questions in our State.

Dr. Hitch. They are certainly on that question then, about the constitutionality.

Mr. Brooks. That is exactly what I am saying. I am saying you know, they want us to put them in our State, but they do not want to give us information to decide whether or not we should.

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Mr. Brooks. There are also some other issues involved. I would agree that there is a credibility issue involved in terms of NRC and what they say and whether or not you know it is perceived to be correct.

There are some other issues. I guess what I would just say to you primarily to describe what we believe is the relationship between NRC and the States is not good. It should be improved. There should be a recognition I believe by the Federal Government and particularly by NRC that there is a role for the States to play and that there should be cooperation between the two as opposed to the attitude that now exists.

We do not sense that same problem with the FPC.

Mr. FINGER. That is a different point then. I do not disagree.

Mr. BROOKS. I think out of that could grow a mutual kind of agreement as to what the role should be, and the kind of flow of information that would help us make the kind of decisions we think have to be made.

Mr. EADS. Do you have a feel for the condition in which it develops and the condition under which it does not develop? Is it just a matter of organizational attitudes and chance?

Mr. BROOKS. I believe it is, primarily, attitudes and you know, plus the subject matter.

Well, there are a lot of things connected with the nuclear power question which I really do not want to get into. I think the subject matter itself makes the roadblocks a lot tougher. There is a very little expertise in the States, for example, that we can talk about and the NRC has become a master of obfuscation. In my view they are better at that than anybody else in the Federal Government.

Now let me just finish this, because I am not a neophyte in this area. I have been in nuclear weapons for 7 years, I am an engineer by training and I understand the theory of radiation, I understand the theory of reactors and I have worked in it. I am also, have done computer modeling and I understand all these things and I am a lawyer besides.

But I am telling you that I have written letters to the agency that have come back to me——

Mr. COOPER. The NRC?

Mr. BROOKS. The NRC, the old AEC and the NRC—which have required interpretation by several people, not only myself, but other people who have been trained in nuclear power plants, before I could begin to understand what they were trying to say and then almost invariably they said nothing.

Now, that is all I am saying, and I think that is an attitudinal problem as much as it is anything else.

Chairman CRAWLEY. Except for your law degree, Mr. Finger's qualifications are very much like yours. He, too, is an engineer, he, too, worked in the nuclear field and Harry, there seems to be a considerable disagreement.

Mr. FINGER. I am not using any background to make those comments. From everything I can tell the NRC makes public and available in its public document room every document submitted to it and every decision document that it issues. That is the basis for its determinations and approvals and that includes the reports that are submitted by the utility that describe their application and everything else.

All of that information is publicly available, essentially for anyone who may want to take the trouble to find out about it and I am not talking about NRC, I am not going back into old history.

Mr. Cooper. I think what you might have your hands on, Mr. Chairman, is a recommendation and I think that it would not be a bad idea. If your problems with the NRC are general, for somehow for it to be suggested that the NRC develop a better system of communication with either State public utility commissions or State planning commissions. It is conceivable that perhaps they could run a 3-day workshop in either regions or States and bring people down here. The thing that I find troubling is that it is a perception which, if it is general, is an unnecessary burden on the process of developing a rational energy policy.

Mr. Brooks. I can say unequivocally that my viewpoint is not a single viewpoint from a single State. I can speak with complete assurance for the 6 New England States and I can speak also with assurance for at least 15 other States in this country. And probably the Governors and their energy people.

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But what they come back to me with is long paragraphs with a lot of buzz words and I have been involved in bureaucracy long enough that I recognize them. OK, and I just figure if I cannot understand them and if I cannot read a paragraph and make some sense out of it and a response in coming back to a State official then I have to think someone on the other end is trying to snow me.

You know, I have that much confidence in my own ability, having been trained in the law at least to read and understand and grasp things and I would not tolerate that from a member of my staff. I just would not tolerate that kind of an answer, and that is what I meant when I said chaos. I did not mean that they purposely withheld documents or anything like that because they have always furnished us with whatever we have asked them for in the way of documentation which we do use and we go both to the utility and the NRC to get documentation but it is primarily in the letterwriting and in their responses to specific inquiries.

Mr. Finger. I see. But that is the point I was reacting to because I interpreted your comments as indicating that they refused to give you information.

Mr. Brooks. No. Sometimes I think purposely they will send you 18 documents and what you are looking for is on page 200 of 1 document. And I think that this is the point that Mr. Eads was making. And also frankly I have seen this with the Federal Power Commission. The FPC relationship we have is decent, because I serve on their advisory board. I am on their Natural Gas Curtailment Strategy Board, I am on several of the policy boards and I find that a very effective mechanism for getting involved in there with people so that you are talking in there with people instead of you know, to organizations, and out of that generally flows better communication, better understanding with both of your problems and theirs.

Chairman Crawley. I would like to bring our session to adjournment in just a moment.

This is perhaps the fourth time in the last 3 or 4 years that I have been involved in meetings involving Federal programs and having State and local officials there.

It always comes as an enormous shock to persons at those tables when State and local officials make these kinds of comments about their relationships with the Federal Government, but it seems to be almost endemic in our intergovernmental relations these days and it seems to make no difference whether we are talking about energy matters, we are talking about health, we are talking about education, we are talking about welfare, we are talking about almost anything else.

So please do not be startled unduly what you may have been told. I think we take away from this a number of comments.

The opening one by the Commissioner that conflict is built into these relationships; conflict however, should be attended by confidence on both sides of the equation and that may be one of your problems in your State. It may be a problem in other places. But also attendant to that conflict which is, I think, probably healthy, there ought to be some colloquy, there ought to be some accommodation, there ought to be some communication, there ought to be some understanding and these are issues I think that we must return to before we adjourn tomorrow.

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FEDERAL ENERGY REGULATION

Chairman Crawley. Our subject this morning is regulation. We talked a good bit about it off and on yesterday, but we are going to go through that topic this morning.

And we will have Bill Doub, who is now practicing law with a New York-Washington-based law firm, make some background comments. Mr. Doub is a former Commissioner of AEC and was Chairman of the Federal Energy Study Team which produced this report on Federal energy regulation, an organizational study.

Bill?

Mr. Doub. Well, I wonder what is expected of me.

Chairman Crawley. Settle all the questions.

Mr. Doub. Well, I took the instructions literally and prepared a few minutes of remarks, and I am not sure if I had to do it ever again I would not do it in quite the format I have it here, but since I have it, with your indulgence, I would like to run through it a little bit.

What I said here is that in the United States, there seems to be a preoccupation with reform that we see both with regard to taxes and administrative agencies. And I feel that perhaps my experience made me a bit of a cynic, but whenever I hear the evangelists for either regulation, that French aphorism leaps to mind—the more things change, the more they remain the same—or, no matter what form regulation takes, people are not going to be happy.

Now, I have been in this for a long time, back as people's counsel in the middle sixties arguing the case of the public in Maryland before the Public Service Commission, the only State in the Union that had and does have a people's counsel.

Then as chairman of the commission, trying to make the judgments in the area of rates and utility service that is required; and then during the very difficult years of the Atomic Energy Commission right after the *Calvert Cliffs* case of July 16, 1971, in trying to license nuclear plants, and at the same time bring the regulation of these plants into a situation consistent with public policy and public demand.

So I am a little bit cynical, but from all of this I believe that the Federal regulatory agencies have a necessary and vital part to play in our governmental scheme, and I do not advocate their abolition in any manner.

I also believe that the success of those agencies depends on the accuracy of the public perception of their purposes and goals. That public perception, of course, reflects the success, competence, and vitality of the regulatory process itself.

I believe that that is the most misunderstood aspect of regulation; namely, the philosophy behind it, and it is the misunderstanding that is often at the root of criticism of the Federal regulatory system.

So I would like to concentrate more on what constitutes proper regulatory policy rather than on a strict legal analysis of current and future problem areas.

I would like to try to define the purposes of the regulation process and to respond to some well-worn criticisms of Federal regulatory agencies, especially in the context of the most recent attempts to reorganize them.

Now as long ago as 1952 the Supreme Court stated that the rise of the Federal regulatory agencies—

> Has been the most significant legal trend of the last century and perhaps more values today are affected by their decisions than by those of all the courts, review of administrative decisions apart.

The effects of the regulatory process on the average person are pervasive: Air and water pollution, electricity, gas, telephone, and other utility services; rates, schedules, and services of common carriers; radio and television broadcasting; food purity; unfair or deceptive advertising; unfair labor practices. They are just a few of the items regulated in whole or in part by Federal agencies.

Now to jump to an immediate problem. Much of the current criticism concerning the performance of regulation, what some see as its failure to serve the public interest, or at least their version of the public interest, however, has its roots not in the failings of the regulatory system per se, but rather in the upheavals that have racked our Government over the past few years which we are all aware of.

A preeminent manifestation of these upheavals is a loss of confidence in all Government institutions, or most of them, and public servants, and the Federal regulatory agencies and individual regulators are not exempted because regulatory process is, in fact, a tension point, and was always intended to be so.

Given the present political climate and lack of public confidence, any discussion about difficulties in the regulatory process have to focus initially on this loss of confidence in governmental institutions, and it must be dispensed with before the real, substantive problems can be addressed.

Now one of the most worrisome aspects of this questioning of the arms of governmental institutions is its potential for wreaking havoc on the quality and expertise of regulatory agencies.

And that takes us to the concern about potential conflicts of interests in making appointments to regulatory agencies and to governmental positions in general.

Certainly, it is proper to be vigilant in this regard. Increasingly, however, in order to be appointed and confirmed, a nominee for a Federal regulatory position must be able to demonstrate that he or she has had no previous economic relationship, however tenuous, with the industry to be regulated.

This approach may assure that the nominee has no industry connections, but it also assures that he or she may know little about the area to be regulated.

In its extreme, the present trend extends to attempting to secure from nominees a promise that they will not be associated in any respect with the regulated industry in the future, after they complete their service on the regulatory body.

Demanding such a promise is an insult to the nominee, for it is a presumption that he will prejudice a regulatory decision in hopes of obtaining something of value in the future.

Aside from the fact that no one can see the future, the practical effect of these new demands on nominees is to discourage knowledgeable persons from considering regulatory service, and I think we are seeing quite a bit of that.

If they should accept an appointment, their tenure and experience on a regulatory agency would be wasted, for after their terms they would be required to embark on unrelated careers.

If this trend were carried to the extreme, the result would be regulatory agencies administered by persons in the twilight of their working lives who have no practical knowledge of the industry they are regulating and who will retire and do something entirely different after their Government service. This situation would, of course, serve no one well.

Administrators know that policy is not formulated in a vacuum and that commonsense and practicality have roles in regulatory decisionmaking.

It would seem proper that such factors should play a role in the selection of those who will make the regulatory decisions.

Depriving agencies of administrators with practical experience is simply not rational in terms of getting the regulatory job done.

A major part of the solution to conflict-of-interest problems is to assure that good nominees are chosen in the first place.

In the past, regulatory nominations have been all too political to varying degrees in at least their appearance, and the nature of the political process being what it is, this is unlikely to change substantially in the future.

But the executive branch can and should develop better methods of screening candidates before nominations are submitted for confirmation.

It seems to me that nominees might undergo a nonpolitical endorsement process, perhaps by the National Association of Regulatory Utility Commissioners or some sort of a similar nonpartisan group. This process should be less rigid, but in principle could be similar to the manner in which bar associations screen and endorse candidates for the bench.

I feel that that process has become overformalized and overstructured, and that the judicial system tends to be self perpetuating by the use of their selection method or approval method. But at the outset and for some years, it was effective in assuring qualified individuals for positions on the Federal judiciary.

Public loss of confidence in agency administrators is only one factor that has contributed to the regulatory system's present dilemma. Another connected but longer standing complaint which has, with the emergence of activist consumer organizations, taken on a renewed emphasis is the charge that as the regulatory agencies mature they become captives of the business interests they were established to control.

There is nothing unique about this. In 1894, for example, Attorney General Richard Olney predicted that the Interstate Commerce Commission could prove beneficial to the railroads. In writing the president of the Burlington Railroad, Olney stated of the ICC:

> The Commission is, or can be made of great use to the railroads. It satisfies the popular clamor for a government supervisor of railroads at the same time that the supervision is almost entirely nominal.
>
> Further, the older such a commission gets to be, the more inclined it will be found to take the business and railroad view of things. The part of wisdom is not to destroy the Commission, but to utilize it.

Just as there was validity to the charge of "captive agencies" in 1894, there is some justification for it now. As the regulatory system grows, it often does become less responsive to the changing needs of the society that created it.

Correction of this situation does not, however, lie in complete rejection of the system, but rather in constant reevaluation of its goals, philosophies, and purposes.

Where such reevaluation demonstrates that an agency has outlived its usefulness it should be terminated; where it shows a continuing need for governmental control, the agency should take care to establish priorities in carrying out its goals.

The legislation establishing the Federal Energy Administration intentionally made this type of approach mandatory, and it seems to have significantly sharpened congressional oversight in the energy policy area.

In the last 20 years, changes have been made that have affected both the quality of regulation and the public's perception of its purposes and goals. Identifying and examining these changes reveals more of the substance of what is currently wrong with the regulatory process, and at the same time points the direction for needed reforms.

If indeed society truly is altering its perception of the public interest, regulators must adapt themselves to new demands.

The regulatory process, was of course never intended to be static. Quite the contrary. Regulation, like the society it serves, should be constantly developing; evolving new methods, new practices, and new concepts. It should not become overly legalized, formalified, and too much a victim of precedents.

While regulatory adaptability is necessary, one of the most difficult problems currently to face the regulatory process is the failure of its critics, and the more hard-line cynics, to recognize the principle that constructive change preserves what is good from the past.

Regulation of industry for the public good is a concept which developed from English common law, dating from times when it was found necessary to control the rates and services of inns, gristmills, and stagecoaches. Such businesses had considerable monopoly power in their particular areas.

In our own Nation, development of the administrative regulatory agency dates back as long ago as 1789 when Congress established an agency to regulate the payment of benefits to the veterans of the Revolutionary War.

In 1790, the Patent Office was created, followed by the Office of Indian Affairs in 1796, and the General Land Office in 1812.

It was the States, however, which first established regulatory agencies with broad powers to set standards and develop regulations governing business practices. Of course, the State Commissions came in about the early 1900's up to about 1922 or 1923.

The Federal Power Commission is an example of a regulatory agency whose mandate has expanded through legislative and court decisions to track the evolving needs of society.

The FPC was established in 1920 and given authority over hydroelectric power generation projects situated on navigable waterways under the Federal Water Power Act.

In 1935, Congress authorized the FPC to regulate the interstate transmission and sale of electricity, and in 1938 expanded its jurisdiction to include interstate transportation and the sale of natural gas.

Yet, it was not until 1954 that it was determined that the FPC's jurisdiction over natural gas gave it authority to regulate rates a the wellhead.

Recently, of course, the issue of whether any regulation of natural gas prices is in the public interest has been in the forefront of the national energy debate and it may develop that deregulation is the trend of the future.

The point of this brief history is to demonstrate that as the power of industry and its impact on the public grows the needs of society change, and the elusive concept of the "public interest" shifts.

Regulatory policies and goals must be broad enough, and regulatory agencies must remain flexible enough, to anticipate and be responsive to such developments.

While the initial concerns of the Federal regulatory agencies focused almost exclusively on economic matters, that is, on rates and the accessibility of service to the public on an economically nondiscriminatory basis, regulatory horizons have expanded in recent years to cover a myriad of other goals.

The energy field in general and nuclear power development in particular offer ready illustrations of this trend toward what we tend to call technological regulation as opposed to economic regulations.

Under the Atomic Energy Act of 1946, which established the AEC, nuclear power technology was made a Government monopoly and private ownership of nuclear materials was prohibited.

In 1954, the Atomic Energy Act was rewritten to provide for commercialization of nuclear power and private ownership of nuclear materials.

The Atomic Energy Commission was revamped and given unusually broad discretion to both promote and regulate the use of nuclear power for common defense and security and health and safety of the public.

Congress ended the AEC's dual role of regulator and promoter after 20 years by passage of the Energy Reorganization Act of 1974. The responsibilities for research and development of nuclear power were assigned to ERDA, and those relating to regulation of the commercial use of nuclear technology were vested, of course, in the NRC.

Creation of the new single purpose, NRC marked a clear departure in the subject of regulation; it is the first agency whose single goal, in sharp contrast to the primarily economic charters of the earlier regulatory bodies, is regulation of a new technology.

The NRC is the most obvious example of the change in the regulatory emphasis which has occurred over the last 20 years.

Other agencies, such as the Environmental Protection Agency, also have regulatory authority whose exercise can result in restrictions on the use of certain technologies while forcing employment of others.

Behind this shift in regulatory emphasis lies the fact that at almost every stage of technological development aroused public concern has brought forth complex new issues, such as land use, air and water quality, and recreational and esthetic values, which compete with equally valid requirements for continued economic growth, new sources of energy that confront the public with higher levels of environmental risk, and more efficient methods of obtaining vital fuel and other resources.

A recent development which heavily influenced the ability of the regulatory system to respond to societal needs is the increasing tendency of Federal agencies to adapt a form of regulation by consensus; that is, a perceived need to reconcile the competing goals of a number of agencies prior to taking agency action. And it is a significant syndrome that we have seen in the last few years.

This tendency has become acute in recent years because legislative and judicial determinations have increased both the number of regulatory agencies involved in a particular case or project and the number of factors that a major or lead agency must consider in making its decision.

The NRC provides an instructive example. Until 1970, the AEC's decision to approve or reject an application to build a nuclear facility was focused essentially on whether or not the facility could be built and operated without posing an unacceptable radiological risk to public health and safety.

As a result of the *Calvert Cliffs* case and the implementing of judicial decisions, the AEC now is required to consider indepth the overall environmental impact of the project and its antitrust implications.

These expansions in regulatory involvement have tended further to blur lines of responsibility, increase the number of agency interfaces, and heighten the need for an improved means of managing the multiple activities of the regulatory system.

Again, the energy field offers a ready example of the worst aspects of such a regulatory approach. In 1974 the Presidential Study Commission of Federal Energy Regulation, of which I had a part in with Bill and some others, found that more than 40 agencies were involved in making regulatory decisions on energy matters.

Only a few of these agencies had as their direct goals the regulation of energy, but all could affect its availability and cost, and most would have to be consulted before any energy decisions are made finally.

The passage of the National Environmental Policy Act of 1969 has to some extent exacerbated the regulation by consensus tendency. The requirement of NEPA that an environmental impact statement be prepared by the responsible agency and circulated to other Federal agencies for comment is the exacerbating mechanism.

In the face of continuing questions about their ability to do their jobs, many regulatory agencies take the position that no action is the best action.

As with any multifaceted problem, there is no single solution or answer to present systematic difficulties in the regulatory structure. But I believe that certain conclusions can be drawn from past experience and suggestions for responsible change made.

Regulatory agencies in the past have typically proceeded on a case-by-case basis, considering individual requests for licenses, leases, rates, or other specific actions and relying heavily on precedent.

This approach has often focused attention on the proven rather than the novel, and on the specific rather than the general.

The result, which is often institutional inflexibility and shortsightedness restricting timely regulatory responses to changing national objectives and new problems or opportunities, is no longer acceptable.

In the future, both governmental regulation and the regulated industries will be subject increasingly to changes induced from within and outside the regulatory system. The pressures on the regulatory system and individual agencies will result from disparate and competing concerns.

The time-honored format of the individual adjudicatory proceeding, limited in scope and participants, is simply no longer adequate. Nor does the solution to the increasing need for rapid and flexible regulatory response lie in the passage of new legislation necessarily, which all too frequently results from well publicized but narrow concerns that ultimately prove to work against the broader public interest. Rather what is required is the employment of agency rulemaking on a much wider scale in the future than has been utilized in the past.

Another area in which significant regulatory reform is needed is that of coordination of competing agency purposes and goals.

Contrary to popular belief, the problem of noncoordination in today's compartmentalized approach to regulation is not principally one of duplicated authority and overlapping jurisdiction among the agencies involved and their specific mandates.

Indeed, laws and directives have been carefuly drawn and responsibilities among agencies have been to an amazing degree rather clearly defined in the historical sense.

Ironically, the problem is that agencies for the most part diligently pursue the goals that are legitimate and appropriate to their individual missions. But in pursuing their specific responsibilities, the major agencies are exercising what is in effect a veto power over the regulatory actions of each other. Thus, any regulatory action can only be implemented after a process of regulation by consent.

In certain critical areas, such as energy policy, this system is destructive of national needs. Thus, one objective of reform in energy regulation should be some form of permanent body which would have no operational responsibilities, but could formulate national energy objectives and goals on a more specific basis than we have and provide policy guidance to energy regulatory agencies in administering their specific charters.

This would help immensely to clarify the impact of regulatory decisions by these agencies on matters of critical national concern.

While suggesting a policy of overall guidance, I certainly do not believe that regulatory agencies should be forced to act in unison.

The traditional concept of regulatory independence should not be suspended; rather, individual regulatory agencies need to be given information on fundamental national objectives, and there must be assurance that such information will not be ignored.

Another useful recommendation of the Federal energy regulatory study that I mentioned was the creation of a national energy licensing coordination office to bring some coherence to the present mire of Federal permits and licenses and to preclude one component in this system from exercising an unknowing veto over the entire process.

This office could exert some interagency management control and coordination such as developing overall schedules and overseeing their implementation, which would be of considerable benefit to the applicant for the energy project.

The organizational ideas proposed herein would provide essentially a well-crystallized direction in energy policy matters for regulators; needed direction that is increasingly difficult to obtain under the growing trend toward regulation by consensus.

Worse, the elaborate process of reaching a consensus is more likely to be used as an excuse for delay than it is to achieve results. And delay comes out of the consumers' pockets.

Regulation by consensus is becoming an excuse for failure to formulate and articulate clear national policies and goals and objectives.

In a way, the trend toward consensus regulation is an offshoot of the movement toward what is erroneously termed "participatory democracy". In the regulatory area this has unfortunately often meant that the majority of public interest often is sacrificed for a narrow agency or interest group self-interest.

As industry changes and new technologies become available, some previous regulatory practices must be revised and perhaps new ones adopted.

But the goal must always be to make regulation dynamic; it should not unreasonably inhibit; it should not add unjustifiably to costs which eventually are borne by consumers; it should not be so lengthy as to be a roadblock in the efforts of Government and industry to insure that business is conducted in a fashion that best serves the public.

The public will even have confidence in taxes if the public believes that the revenues are well spent.

* * * * * * *

Mr. Warne. I have a few rather—I would like Mr. Doub to elaborate on this business that his attitudes towards some appraisal of the current drive towards, I guess you might call it the sunset provisions, or specific deregulation, or reestablishment of the regulatory authorities at intervals.

Mr. Doub. Well, it is very difficult for me to say whether that is a proper approach to take. * * *

And of course, we have had the organizational changes with the Energy Reorganization Act of 1974, and the other organizational efforts that have been implemented.

I think that effort reflects the underlying concern that many of these agencies, while created to serve public interest matters at the time they were created, which were of great national importance, the agencies stayed on, and the problem has gone away.

And the agencies by additional supplemental legislation have begun new responsibilities to justify their existence.

And the question I think is, in the last 20 years or however, I have forgotten how long, it is in the background material, is that 200 new agencies have come into being and only 20 have been abolished, or 20 some.

Certainly the sunset philosophy really means that there would be congressional and administrative review of the purposes and functions of the existing agencies, and I do not think that is all that bad.

Mr. KLOMAN. Bill, I would like to hear your thoughts expounded on this idea you suggested of setting up some kind of a policy organization that would be free of any kind of operational responsibilities that would be sort of the umbrella, the intellectual umbrella under which the agencies would operate; and what would be the relationship between that kind of an organization as a policy group and other parts of the energy, total energy governmental responsibility.

Mr. DOUB. The energy industry for years has screamed about delays and bureaucratic redtape and the number of permits in both the Federal, State and local level they have to get; and the fact that they are ratcheted both with regard to requirements imposed upon them by the agency at the time of the granting of the permit and what have you, and thereafter ex post facto.

Some means if we are to preserve the concept of objectivity and impartiality in the agencies, some means of making it possible for the industry to know what the time sequence is in the obtaining of these regulatory approvals so that the projects can go forward on a time scale which is economical and consistent with the demands of the consumer, the needs of the consumer.

That is the basis of my thought with regard to some sort of a coordinative office at the Federal level which would not have substantive power over the issue certainly, but could coordinate the schedules and would provide a focus for the regulated industries to go to with regard to slippages and other problems in meeting the schedule.

Right now the regulated industries cannot have ex parte contact with the decisionmakers and are left essentially at the mercy of the agency staff in determining when the decisions will be made.

So where do they turn? They turn to the political area often, and that is even worse. By turning to the Congress which has budget control and other control.

Mr. KLOMAN. Do you see this then as something that would focus primarily on the problems of regulation as opposed to say, such as energy development, R. & D. kinds of activities, or data collection, or anything like that? Is it something that sits on top of the regulatory function?

Mr. DOUB. Yes. I see that specific proposal as the office of coordination in terms of scheduling where a PERT chart of some sort is developed with the agencies making the input initially as to when their decisions will be made on the given application, which is taken at face value by the coordination office if it is reasonable.

But then if something becomes bogged down and no decision is made, which is often the response of some of the agencies, to do nothing, then that office can mediate the matter to get a decision, whatever the decision is.

Now I think basically the problem is, when we were dealing with economic matters, the establishment of permits and that kind of stuff exclusively, when you have an adversarial process, one side said the rates should be so high, the consumer groups and what have you saying no, the rates should be lower or the same as they are, or the permit should or should not be granted.

It is much easier, and the process would result in a decision from the agency eventually. But making the determination, and then there was judicial review which was carefully developed over the past 50 years and administrative discretion was recognized as preeminent, and only where there was abuse would the court step in, and generally only to refer the matter back to the agency and not to make a substantive decision.

But now we are moving into a whole new area of technological regulations where things are much less objective and where the agency can answer objectively questions, such as the economics of a given conversion program—not conversion, but a new technology, whether it is gasification or LNG or breeder reactors or what have you, and safety and health matters are very difficult to answer using the precedents of the past.

And furthermore, the agency, having made a decision in the technological arena, can't like it used to in the economic area walk away and close the case.

A continuing oversight, surveillance, and monitoring are the new factors of the current technology, and the decision is made and the process doesn't stop. It goes on and on and on with the surveillance and monitoring and periodic review and backfitting as technological improvements are achieved.

Chairman Crawley. Bill, do you want to follow this question, or do you have another one?

Mr. Warne. I am not sure that mine directly relates to this question. But it seems to me that what you are saying is that regulation becomes through this monitoring process, we are creeping out into the administrative area really.

When you gave us your history in your paper of the regulatory agencies you mentioned the earliest ones being the veterans affairs and general land office. And before, it had not occurred to me that they were originally described as regulatory agencies. I always thought of them as administrative agencies.

And I wondered whether this tendency is an historical one in our regulatory procedures, to creep from regulation to administration, and thereby regardless of the efforts we make, by the separation of the Atomic Energy Commission, we find the problem recreated at intervals in the future.

Mr. Doub. Yes; I think your point is well taken. It is hard to define the distinction between what constitutes regulation and administration. That is very difficult.

* * * * * * *

Mr. Gladieux. I think it is a new idea. I will try anyway.

But you said the regulatory agencies can and have on occasion effectively roadblocked an energy policy or a particular means of project, enunciated or sponsored by either the President or the Congress based on differing values or a different value system of the regulatory agencies or considerations that many of us might consider irrelevant or of lesser priorities.

Well, if that happens, and we know it has, and if it is imperative that there be a consistent and uniform national policy, how are we going to bring these regulatory agencies in line as long as they are independent and considered more or less sacrosanct and so on?

What I am really getting at: Is a difference in concept between regulatory and administrative agencies obsolete—I happen to think it is.

You can't make the differentiation as easily as you did in the 1880's. Well, that is a comment as well as a question, but I wanted you to amplify a little more.

Mr. Doub. Well, regulation is a delegated function of the legislative branch of the Government, and it has to be dynamic to reflect changing social values and new ethics.

We see in a lot of the legislation attempts to thwart, push, and require agencies to meet these changing and implement these changing values in terms of the regulatory decisions.

The Dingell bill, for instance, which establishes all kinds of new standards in the economic regulatory area for utilities is an attempt to impose these new standards upon the agencies, even to the State agencies.

Now the dynamics of regulation, which we have seen, is compounded in the economic sense, compounded by the introduction of the regulation of technology which is so much different.

And at the NRC—well, in 1972 it was perfectly apparent to us at the AEC that the same measures were coming up in case after case after case involving nuclear power. And Dr. Schlesinger felt and the Commission felt that we had to get these issues out and treat it generically because they were generic issues, and we went to rulemaking.

The first two were the practical issue on the radiological emissions and the emergency core cooling issue which was coming up in every single case, licensing case. Both of those were treated in rulemaking proceedings, and those issues now essentially have been laid to rest, and the Commission policy has been implemented in the individual licensing cases.

So in the technological area in order to meet the public demands for what they expect from commercial technologies, more rulemaking and less of the economic precedential decisionmaking by an agency I think is required.

* * * * * * *

Mr. Doub. I think the California referendum on nuclear power was probably the best thing that has happened to nuclear power and to high technology in the last 20 years.

The philosophy of the old AEC and the Government was, it was all too complicated for the public to understand. We will do the right thing. The Joint Committee will give us the oversight, and the balance of Congress are willing to delegate the oversight to the Joint Committee and keep it all secret.

And you can only keep something a secret for a short time. That policy doesn't work.

Chairman Crawley. Mr. Cooper? And Chuck, you want to get back into this, I think.

Mr. Doub. But the point is, the public did understand enough to make a decision with regard to nuclear power in California.

Mr. Cooper. It is just this point that I wanted to raise, and I am glad I waited.

Let me first make an observation and then ask a question. The observation is that one of the great social, political, and energy related problems that our society is going to face over the next several years is the extent to which nuclear energy can be perceived as acceptable by Americans.

The issue illustrated in California, and this is by no means the last we have heard of this, is taking on some of the characteristics of Vietnam debate which sounds very familiar. There is a great deal of heat and not too much light on the issue, and it is a great emotional question involved. There are religious fanatics on both sides of the issue who have a great personal and professional stake in their extreme positions and are not likely to be approached.

But there is a broad spectrum in between those extremes which is somewhat ambivalent on the subject. Surely there is much to be concerned about in terms of nuclear power.

Some of the concerns are fixable; some may not be. Some may be fixable but at a cost we find very difficult to assume. Some may be fixable, but yet not perceived to do the trick in terms of making nuclear energy acceptable.

Yet, from another point of view, if we can't make nuclear energy acceptable, if in fact every nuclear plant is going to create such a tremendous social political hassle, we may find ourselves in serious trouble.

Now it seems to me that as you examine some of the problems that are evident and could be fixed, there is the credibility of the NRC as a regulatory body in a sense that you were just referring to.

I was going to say one of the major concerns of my own institute over the next year or two is how one addresses, how one grapples with this whole question of the acceptability of the energy, not in terms of trying to seduce our people or do some cosmetics and sleight of hand, but really how do you get at the real issues.

And it has to appear to us that although there are not many, perhaps a dozen, surely the credibility of the NRC and certain things that have to be done with respect to the NRC to provide public confidence in this decision is one.

That is a long observation.

But the question is, Mr. Doub, in terms of your own experience at AEC and subsequently, how would you, if you had to start from the beginning in the light of what we now know, what would you do with the NRC?

Ms. Selby. Can I make a point here, and it will lead into your answer. I was just fascinated with your interpretation of how and why part 15 was defeated.

I was out there speaking on it, and what also puzzled me was our side, the antipart 15, kept talking nuclear safety.

As I analyzed the initiatives, it had nothing to do with safety; it had to do with who controls and who decides the safety and so forth. And the issue basically said that the issue would be in the hands of a State legislature and in the one-third part of the State legislature. And I was very puzzled that we didn't make that the real issue, who controls things.

And if I was with the NRC now, or in a sense, answering Mr. Cooper's point, I think we have a beautiful point now to dramatize the decision of the people of California, not so much as saying that nuclear is safe enough, but saying that we have confidence in the current people who are deciding and controlling the siting and safety.

I think it is a beautiful opportunity, saying that the people of California have faith in the regulatory system, and I couldn't agree more. They didn't know that was what they were deciding, but that is what they were deciding.

But I couldn't agree more with Mr. Doub's point about the public perception, and we have a gorgeous case study now to piggyback on in terms of what is coming up in the other States.

Chairman CRAWLEY. Mr. Doub, I think we know, and I don't want to complicate your situation any further. Dr. Orlans wants to add to this.

Dr. ORLANS. Unfortunately yesterday we heard from Mr. Brooks, the commissioner of energy planning in Connecticut, and everything he said, and he assured us that State participation and regulation efforts, at least in these areas is essential for public acceptance to be achieved.

Mr. DOUB. In the technology areas.

Mr. WARNE. Yes; in the technology area. And yet, I think you said that the tax that Kentucky was going to level was probably unconstitutional, and I have heard authorities say that the three little anecdote bills that we passed in California were unquestionably unconstitutional.

I wonder whether really the dominant Federal interest is going to permit the States to participate, even though the obvious trend is, for public opinion at least, is to have more State participation.

Mr. DOUB. Yes; I think the Minnesota case on the State's efforts to impose more strict radiation control over a plant in Minnesota which established the Federal preemption in this area, we are going to see more of an application of that case to the States' rights.

But my point is that we saw in the AEC and the NRC the beginnings of technological regulation and it is inevitable the States will follow along, just as we saw the creation of the ICC and the economic regulatory area, and the States followed along with their State public service commissions.

Now in the system of Government we have, somehow the balance will be worked out between the two. But we are already seeing NRC entering into protocols with Maryland and New York with regard to joint licensing hearings.

So it is beginning. It was inevitable in my judgment, and it has started, and somehow the accommodation will have to be worked out.

Mr. GLADIEUX. In your view, Mr. Doub, is there virtue to the suggestions sometimes weakly put forth, but at least they have surfaced here and there, of unifying the regulatory function affecting energy? Specifically, should NRC and FPC and maybe some aspects of pipeline regulation and some other pieces and so on be brought together into a single national energy regulatory agency? Is there something to this?

Mr. DOUB. I think there is real value in considering that as we move ahead. I think again I would urge the distinction between technological regulation and economic regulation. You can't put cats and dogs together.

But when it comes to technology, yes. I think we are coping now with something we have never before faced, and that is, these technologies which require just enormous sums of money, where the continuing surveillance of the protection and health of the public is concerned, the movement of getting the government out of the enrichment area and getting that back into private hands.

Mr. DINSMORE. Well, simply I guess just stated, the issue, the degree to which there is such an imperative, and whether or not that imperative will keep the operational and policy objectives separate from the power to regulate necessarily applies to each of the instances of regulation or whether it may be a consideration that applies selectively to some forms of regulation but not necessarily to each.

Chairman CRAWLEY. And Mr. Bingman, also coming recently from that esteemed organization may wish to add to this.

Chuck? And then we will turn to you, Mr. Doub.

Mr. BINGMAN. I have a feeling I have to speak a word in defense of the indefensible. But this regulation is happening to us at about six levels; that is, we have probably created more independent regulatory commissions in the last 5 or 6 years than in any comparable period in the history of the public.

I am thinking of things like not only the NRC, but the Commodities Futures Trading Commission, and the Consumer Product Safety Commission, and the separation of the National Transportation Safety Board. So there are a whole class of things which rightly or wrongly are called independent regulatory commissions that the Congress has created.

It is a highly political argument as to why the Congress wants that kind of institution.

Second, there are nonindependent regulatories, things like the Federal Food and Drug Administration, and HEW, and OSHA, and the Labor Department, and Bureau of Mine Safety Administration, and Interior, and so on.

So we have created a number of those. That is the second level.

Then there are sort of agencies whose role you can't really quite figure out any more, EPA for example, is very heavily a regulatory agency, and yet at the same time is heavily an instigator and a catalyst for development for environmental protection activities.

FEA itself has become quasi-regulation, quasi-development, and other pieces that defy description.

So that is the third level.

Then, in a sense, the independent regulatory commission was an expression of the Congress saying we would have legislated if we had had the time, but we didn't. But meanwhile, they are legislating like mad.

There is an endless compulsion to legislate regulation that almost every agency in town finds itself in the position of having what are in effect regulations that are mandated and there are statutes which they are expected to administer.

Then there is a fifth full gray area which I would class under the general term "compliance" where Federal bureaucracies can mandate rules and procedures of their own. Some have the formal aspect of rulemaking, but many others do not.

And the whole business of grant making, for example, where controls are applied on the use and means by which those grant funds are expended which show all the force and effect of regulation in a practical effect.

And then sixth, the thing that Bill Doub was mentioning, a whole layer of State regulatory and compliance activities which parallels in its way all of the facets or happenings at the Federal level.

Now this is an endless process. What it produces is a set of institutional relationships which multiply seemingly geometrically.

Bill Doub's regulatory study has some marvelous material in the back end which was simply spread sheets showing the interrelationships of regulatory agencies in energy and how they deal with each other and with line agencies. That is an untapped gold mine that the Federal Government really did not get benefited from.

And that kind of interrelationship between regulatory bodies and executive agencies are a substantial constraint in the capacity to move action through the system.

The thing I was saying yesterday in the energy area, it shares the same problem. We don't seem to have a clear theory of when and under what circumstances to regulate. Is there some limitation to the congressional power to mandate regulation?

If so, what is that? Bill has illustrated very well a substantial movement within the Federal Government beyond the dimension of economic regulation into the dimension of health and safety regulation, which is highly technical in character.

Beyond that compliance can address itself to almost every subject, and it puts in place some Federal bureaucracy whose wisdom is supposed to be superior, whose authority is backed by powers to enforce, and who then costs us a good deal of money to sustain in order to be allowed into this kind of inspection and compliance work.

I don't think you are really going to answer a lot of the questions of what you want to regulate in the energy industry until you have a better theory of the purposes of that regulation.

Mr. DOUB. I think Chuck has put his finger right on it. In the area of foreign policy, we have a highly disciplined system of implementing and development of our foreign policy and implementing it.

It may be the nature of the legislative beast that the Congress in setting domestic policy in some of these highly fractious areas of energy, the only way they can do it is by legislating and imposing new requirements, new mandates, new responsibilities on the regulatory agencies.

And they have taken that. That is a vehicle that they use for implementation of domestic policy.

Dr. ORLANS. It is the national base, isn't it? It is a national distrust. The National Conference on Health in Chicago a couple of years ago, we all concluded that the end result of current trent would be that half the population would regulate the other half every other day.

Chairman CRAWLEY. Mr. Cooper, you have the last comment or question.

Mr. Cooper. Well, perhaps it is appropriate for me to suggest that you have a recommendation as a result of this conversation. And recommendations, I think, are kind of hard to come by, but I think you have one.

And I would suggest that Congress may be worrying about the wrong thing in its concern about a Department of Resources and Energy. That is not a terribly urgent question it seems to me.

The urgent question is this problem, how you rationalize the regulatory activities in connection with energy. It is not only the NRC. For example, there is some concern about radioactivity, and there should be. There is not enough concern abut the problems of carbon dioxide and the burning of fossil fuel. That is a much more urgent, imminent, and perhaps even profound threat to society.

I don't see any comparable concern about that.

As you look ahead over the next decade or two, many of the hallowed relationships between the Federal Government and the State and public service commissions and public utility commissions it seems to me are going to have to change very radically, especially if we proceed on any one of several energy paths.

If you proceed on the path, for example, of one extreme of highly decentralized energy systems, the heat pump for example, or solar packages, the whole question of State regulatory activity in connection with that is really—it has nothing to do with the historical public utility regulation.

On the other hand, if you proceed with the highly centralized arrangement in the nuclear area, breeders for example, I just don't see what the role of the State public utility is. They may have one, but it isn't quite clear.

The whole host of issues which I think ought to be examined, and I think they are more urgent and present more real questions for the future than the business of trying to tidy up the resources and energy area.

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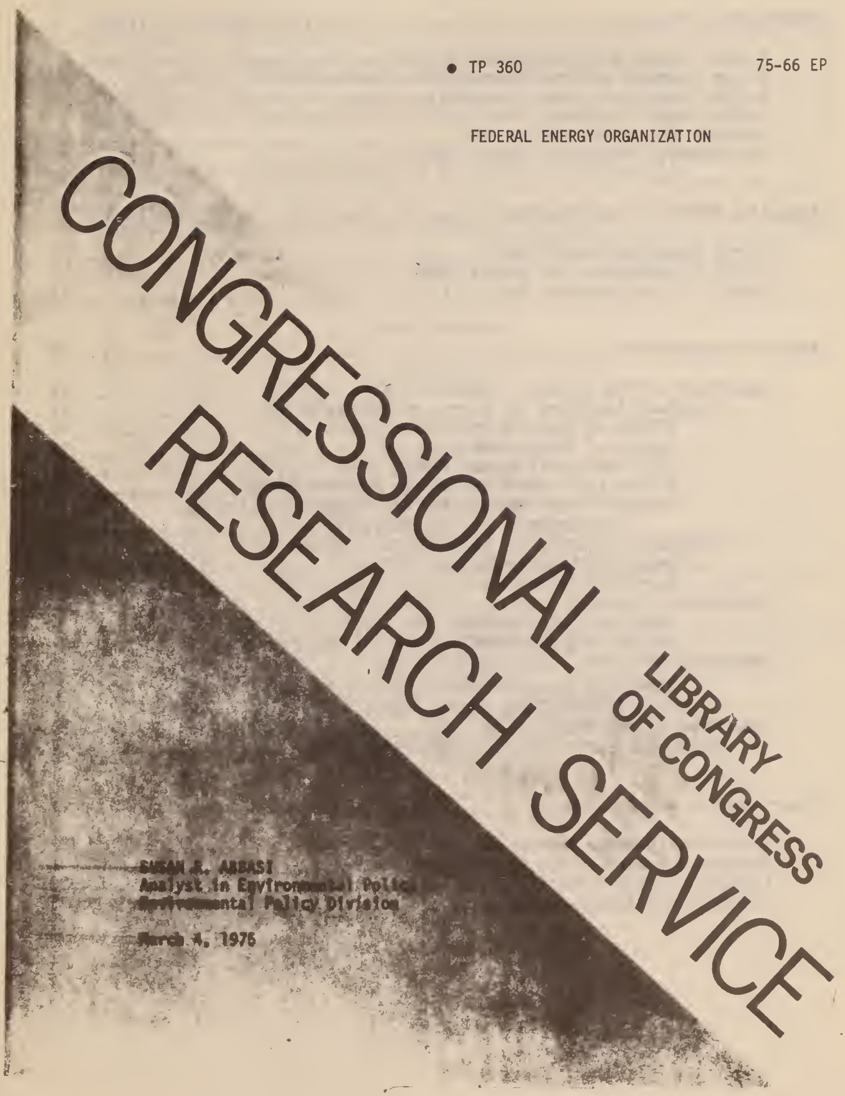
V. FEDERAL ENERGY ORGANIZATION



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AGENCY ACRONYMS

AEC -- Atomic Energy Commission
BLM -- Bureau of Land Management
BOM -- Bureau of Mines
CEA -- Council of Economic Advisers
CEQ -- Council on Environmental Quality
CIA -- Central Intelligence Agency
DOT -- Department of Transportation
EPA -- Environmental Protection Agency
EPO -- Energy Policy Office
ERC -- Energy Resources Council
ERDA -- Energy Research and Development Administration
FEA -- Federal Energy Administration
FEO -- Federal Energy Office
FPC -- Federal Power Commission
HUD -- Department of Housing and Urban Development
ICC -- Interstate Commerce Commission
IEA -- International Energy Agency
NASA -- National Aeronautics and Space Administration
NOAA -- National Oceanic and Atmospheric Administration
NRC -- Nuclear Regulatory Commission
NSF -- National Science Foundation
OMB -- Office of Management and Budget
TVA -- Tennessee Valley Authority
USGS -- United States Geological Survey

The reorganization of the Federal Government for the handling of energy issues has been a continuing focus of congressional interest in coping with the Nation's energy problems. Since the energy crisis intensified in 1973, the President reorganized energy programs three times, and Congress established four new energy agencies by legislation in the 93rd Congress. Numerous energy programs are still dispersed among many different agencies, some with energy as their primary concern, and others with energy functions impacts related secondarily to their principal mandates in other areas.

This report summarizes the functions of the energy agencies in the Federal Government.

INDEPENDENT AGENCIES

Three independent energy agencies were established by the 93rd Congress: The Federal Energy Administration, the Energy Research and Development Administration, and the Nuclear Regulatory Commission. Other independent agencies with primary energy functions include the Federal Power Commission, the National Science Foundation and the Environmental Protection Agency.

The Federal Energy Administration (FEA)

The FEA was established in May, 1974, by P.L. 93-275 (15 U.S.C. 761-786). It was designed to deal with energy allocation and supply problems, and is the Federal agency with responsibility for allocation plans, possible rationing, and related programs. It deals with conservation measures which can be instituted through existing technologies. At its inception (as the Federal Energy Office, preceding its statutory authorization) it was designed to be the focal point for energy policy planning. However, this role has been passed on to the Energy Resources Council (see below) and to some extent has reverted to the Interior Department. The FEA role is now largely data collection and analysis of supply/demand, including forecasting availability, and other policy inputs.

The FEA legislation evolved directly from other reorganization efforts of the Administration, which began with attempts to deal with the energy crisis of mid-1973. In April of that year, the President established a Special Committee on Energy composed of three of his advisers--John Ehrlichman, Henry Kissinger, and George Schultz (Executive Order 11712). On June 29, he established, by Executive Order 11726, the Energy Policy Office (EPO), which superseded the Committee and was headed by former Governor John Love of Colorado. This office was set up in the President's office, and given advisory functions only.

On December 4, 1973, President Nixon again reorganized to set up the Federal Energy Office (FEO) in place of the EPO; it was headed by Treasury Deputy Secretary William Simon (Executive Order 11748). The FEO was given the EPO's advisory policy role, and also responded to the worsening fuel shortages by assuming control over fuel allocation, rationing and prices, with additional duties in energy data collection and energy conservation. Functions of several offices were to be performed by the FEO. These included four offices from the Interior Department--Petroleum Allocation; Energy Conservation; Energy Data and Analysis; and Oil and Gas. Also transferred were the functions of the Energy Division of the Cost of Living Council.

Bills to establish the FEA were introduced with the objective of providing statutory authority for an independent agency with these functions, and officially transferring the offices named above to the new agency. This legislation passed the Senate December 19, 1973, and the House March 7, 1974; the Conference report was agreed to in the House on April 29, 1974, and in the Senate May 2, 1974. The bill was signed into law May 7, 1974. Executive Order 11790 effectuated the FEA, and superseded the earlier order establishing the FEO.

The FEA was created as an interim agency to meet the immediate energy crisis. It is due to expire June 30, 1976, with the expectation that its functions will revert to the Interior Department or its possible successor, the proposed Department of Energy and Natural Resources.

The Act authorizes an Administrator, two Deputy Administrators, and six Assistant Administrators, to be appointed by the President with the advice and consent of the Senate.

The FEA organization chart provides that the six assistant administrators are to be responsible for these six areas:

--Policy, and analysis: Operates the National Energy Information Center, which collects and disseminates data; this office also forecasts and analyzes shortages and impacts, and it coordinates energy policy processes and formulates alternatives;

--Operations Regulations and Compliance: Administration of petroleum and gas distribution and consumption programs;

--Management and Administration: Coordinates FEA's management and administrative programs;

--International Energy Affairs: Focuses on all international and national security factors that are specifically energy oriented, including coordination of policies with Department of State, Defense, and other agencies;

--Conservation and Environment: Responsible for actions to reduce demand for fuels and improving efficiencies, and analysis of environmental implications of energy initiatives;

--Energy Resources Development: Generally responsible for Project Independence planning and to insure maximum freedom from dependence on imported fuels by increasing fuels production.

Among the specific functions of the Administrator described in the Act are advising the President and Congress on a comprehensive national energy policy with respect to the energy matters within FEA's purview; assessing adequacy of energy resources in the immediate and long-range future; developing effective means for participation of State and local governments in energy decisions; developing plans and programs for dealing with energy production shortages; promoting stability in energy prices; developing import and export policies on energy resources; assembling energy information and data; and administration of propane gas pricing regulations.

The Act officially transfers to FEA the four offices already functioning through the FEO from Interior--Petroleum Allocation, Energy Conservation, Energy Data and Analysis, and Oil and Gas--and the Energy Division of the Cost of Living Council.

The FEA is directed in the Act to submit numerous reports on phases of energy needs and energy organization in the Government.

The Energy Research and Development Administration (ERDA)

The ERDA was established in October, 1974, by the Energy Reorganization Act of 1974, P.L. 93-438 (88 Stat. 1233), which abolished the Atomic Energy Commission (AEC) and divided its functions between ERDA and the Nuclear Regulatory Commission (NRC). The NRC took over the AEC licensing and regulatory functions; all other AEC functions, including nuclear weapons development and production, were transferred to ERDA. The major objective of this legislation was the creation of a comprehensive, independent energy research and development agency which would play the leading Federal role in the balanced and speedy development of various energy production technologies. It was also an important purpose of the Act to separate the research and development functions of the AEC for nuclear power generation from the regulatory functions of that agency.

In addition to the R & D functions of the AEC, the Act also makes these transfers to ERDA in Section 104:

--from the Department of the Interior, all functions of the Office of Coal Research, all fossil fuel energy research and development programs of the Bureau of Mines "energy centers", and functions that relate to underground electric power transmission research;

--from the National Science Foundation, all functions relating to solar heating and cooling development, and geothermal power development;

--from the Environmental Protection Agency, those functions relating to research, development, and demonstration of alternative automotive systems--but not those relating to assessment or monitoring of automotive systems for regulatory purposes.

The ERDA is to be headed by an Administrator, appointed by the President, with the advice and consent of the Senate. The Act establishes six Assistant Administrators, each in charge of a specified area of responsiblity; these delineate the six major organizational units in ERDA as follows:

--Fossil Energy;

--Nuclear Energy;

--Environment and Safety;

--Energy Conservation;

--Solar, Geothermal, and Advanced Energy Systems;

--National Security (weapons research)

In Section 103, under "Responsibilities of the Administrator", the general functions of the ERDA are spelled out as follows:

(1) exercising central responsibility for policy planning, coordination, support, and management of research and development programs for all energy sources, including assessment of and policy planning for long-range energy research and development needs;

(2) conducting and encouraging research and development of extraction, conversion, storage, transmission, and utilization phases of all energy sources;

(3) supporting and conducting environmental, biomedical, physical, and safety research related to development of energy sources and utilization;

(4) taking into account other public and private R & D activities in formulating its own R & D program;

(5) supporting cooperative R & D programs with public or private persons or agencies;

(6) developing, collecting, distributing, and making available for distribution, scientific and technical information on energy manufacture, development, extraction, conversion, transmission, and utilization;

(7) disseminating of general energy information to the public;

(8) encouraging and conducting R & D in energy conservation;

(9) encouraging and participating in international cooperation in energy and related environmental R & D;

(10) increasing supply of manpower for energy R & D through assistance to education and training programs;

(11) encouraging and conducting R & D in clean and renewable energy sources.

Special entities of the AEC transferred to ERDA include the following:

--General Advisory Committee (established pursuant to section 26 of Atomic Energy Act--42 U.S.C. 2036)

--Patent Compensation Board (pursuant to section 157, Atomic Energy Act--42 U.S.C. 2187)

--Divisions of Military Application and Naval Reactors (pursuant to section 25, Atomic Energy Act--42 U.S.C. 2035)

ERDA was activated by Executive Order on January 19, 1975. In addition to the functions transferred in its originating legislation, other legislation mandates are given to ERDA--in keeping with its major purposes, described above--in the following acts:

--the Federal Nonnuclear Research and Development Act of 1974 (P.L. 93-577, approved December 31, 1974), which provides the major guidance to the ERDA Administrator as to the principles, authorities and duties to be carried out with respect to R & D in energy technologies other than nuclear.

--The Solar Heating and Cooling Demonstration Act of 1974 (P.L. 93-409);

--The Geothermal Energy Research, Development, and Demonstration Act of 1974 (P.L. 93-410);

--The Solar Energy Research, Development and Demonstration Act of 1974 (P.L. 93-473).

The Nuclear Regulatory Commission (NRC)

The Nuclear Regulatory Commission was established, with ERDA, in the Energy Reorganization Act of 1974 (P.L. 93-438, 88 Stat. 1233). It possesses all the regulatory and licensing authority and functions of the former AEC, which was abolished by this legislation, and is thus the Federal agency responsible for the regulation of nuclear power generation.

The basic format of the AEC was reconsituted in the NRC: five commissioners make up the Commission; they are to be selected by the President with the advice and consent of the Senate; the chairman, designated by the President, is to be the chief executive and administrative officer. A Director of Regulation is to be appointed to serve as coordinator for the functions of the three major offices of the Commission.

The NRC legislation describes the three major offices, which include functions which emphasize safety considerations explicity. These offices comprise the major organizational components of the Commission:

--The Office of Nuclear Reactor Regulation will have responsibility for licensing and regulation involving all facilities and materials within nuclear powerplants; it will also review safety and safeguards of such facilities, including monitoring, testing and recommending changes in systems for safety purposes, and the recommendation of research necessary for discharge of the NRC's duties.

--The Office of Nuclear Materials Safety and Safeguards will have responsibility for licensing and regulation involving all facilities and materials related to nuclear materials outside nuclear reactors. This involves primarily processing, transport and handling of nuclear materials, and includes provisions for safeguards against threats, thefts, and sabotage of such licensed facilities and materials. This office also has safety and safeguards review responsibilities like those described for the Office of Nuclear Reactor Regulation.

--The Office of Nuclear Regulatory Research is to engage in or contract for research which the Commission deems necessary for performance of its licensing and related regulatory functions; it is also directed to develop recommendations for research deemed necessary for the Commission.

The director of each office has statutory authority to deal directly with the Commissioners.

The Federal Power Commission (FPC)

The Federal Power Commission is the primary Federal agency regulating interstate aspects of electric power utilities and natural gas industries. It is an independent regulatory agency operating under the Federal Power Act, as amended

(16 U.S.C. 791a-825r). The Act originated as the Federal Water Power Act of June 10, 1920 (41 Stat. 1063).

Its three major areas of concern are the regulation of electric power generating facilities; licensing and inventorying of hydroelectric power facilities; and the regulation of interstate natural gas activity and evaluation of this resource.

Electric power activities of the FPC include approval authority for rate changes by electric utilities; maintaining a continuing National Power Survey which analyzes issues, alternatives, and availability in electric power generation, including such things as evaluating effects of oil import curtailments on electric power production; regulating mergers and consolidation of certain utilities; and the issuances of certain utilities securities. Through its regulation authority, the FPC has responsibility for assuring just, reasonable, and non-discriminatory rates for electric power.

With respect to hydroelectric power regulation, the FPC licenses non-Federal hydroelectric power projects, and requires recreation facilities in connection with these. It maintains an inventory of all hydroelectric power resources in the U.S.

Natural gas activities of the FPC include stimulation of production and encouragement of high-priority utilization through pricing authorities. The FPC is the major Federal agency active in managing distribution and utilization of natural gas. Through its manipulation of rate structure it encourages research and development, the development of reserves, and the utilization of natural gas in activities high on its list of policy priorities. It issues pipeline certificates authorizing construction, regulates pipeline rates, and authorizes construction of liquified natural gas storage facilities.

The FPC recently completed the National Gas Survey, an evaluation of the total natural gas resource and studies of all phases of natural gas production, utilization, distribution, supply and demand. This was the first independent, government-conducted appraisal of proven gas reserves. It was conducted under sole supervision of FPC and utilized the staffs of FPC; the U.S. Geological Survey of the Interior Department; the Office of Naval Petroleum and Oil Shale Reserves of the Navy; the Office of Management and Budget; Bureau of the Census; and the regulatory agencies of the major gas-producing states.

The National Science Foundation (NSF)

The NSF is an independent agency established by the National Science Foundation Act of 1950 (64 Stat. 149; 42 U.S.C. 1861-1875), as amended. It has as its prinicpal objective direction of the capabilities and knowledge of the scientific community into development of useful knowledge and technology, applied to the needs of society. It has authority to fund research in many areas of concern. Its support is made available through grants, contracts, and cooperative agreements awarded to universities, nonprofit and other research organizations.

As a result of the "energy crisis", the number of NSF funded studies and reports on energy problems and issues has greatly increased. The director of the NSF serves as the President's Science Advisor, and NSF assists a number of offices and agencies by supplying information or contracting studies on energy issues which are of concern to them. Among offices receiving such assistance from NSF or collaborating with it, are the Office of Management Budget (OMB), the former Federal Energy Office (FEO), and the Council on Environmental Quality (CEQ).

The Research Applied to National Needs (RANN) program of the NSF includes energy projects among its major programs and has funded many energy study and research projects. The NSF has two offices concerned directly with energy: the Office of Energy Research and Development Policy, which generally does not fund basic research, and the Division of Advanced Energy Research Technology, which oversees basic research on energy issues.

Among the studies under way or completed by these offices are the following:

- --Energy systems analysis--determining the interconnections between the resource base (supply) and the utilization modes (demand) at all levels;
- --A cooperative study with Resources for the Future (RFF) titled "Energy and the Social Sciences: A Compendium of Research Needs";
- --An analysis of manpower needs in energy industries, including evaluation of what is needed at the college level to prepare for future needs;
- --A recently contracted "Annual Review of Energy" which will examine annually what is occurring across the board in all energy needs and problems;
- --A critical path analysis on "Project Independence";
- --A comprehensive analysis of all aspects of development of fuel resources in the Outer Continental Shelf;
- --A "neutral" evaluation of fission reactor development strategies;
- --A cost-benefit analysis of energy parks versus dispersed sites;
- --A comprehensive energy inventory contracted with Oak Ridge National Laboratory.

Environmental Protection Agency (EPA)

The EPA was established as an independent regulatory agency by Reorganization Plan No. 3 of 1970. It enforces a wide range of pollution control laws, and carries out research and development on various pollution abatement techniques. Pollution control laws have been the focus of an environment-energy confrontation during the energy crisis, with exceptions being asked from pollution control requirements in order to lower costs of energy facilities and to permit uses of alternative fuels.

Among its functions, EPA has a significant research and development effort devoted to aspects of energy problems. It includes development of a sound technical and scientific basis for insuring adequate protection of human health, welfare, ecosystem and social goals in energy production systems; environmental protection necessary to facilitate the use of domestic energy supplies, with particular emphasis on coal and nuclear systems; assuring that energy system initiatives can be implemented without delays caused by inadequate and insufficient environmental impact data; and development of pollutant control technologies along with emerging energy systems, to minimize control costs and environmental impacts.

EXECUTIVE OFFICE OF THE PRESIDENT

A number of advisory units in the Office of the President deal with aspects of energy issues. During 1973 and 1974 numerous reorganizations in the President's Office sought to establish a policy center for energy issues. In late 1974 Congress established the Energy Resources Council to serve this purpose; however, several other units continue to have energy-related functions. Listed below are descriptions of the Energy Resources Council and some of the other offices directly under the President which have important energy activities.

Energy Resources Council (ERC)

The Energy Resources Council was established in Section 108 of the Energy Reorganization Act of 1974 (P.L. 93-438; 42 U.S.C. 5818; 88 Stat. 1241). It is designed as an interim, interagency coordinating unit, and the Act designates these members:

--Secretary of the Interior

--Administrator of the Federal Energy Administration

--Administrator of the Energy Research and Development Administration

--Secretary of State

--Director of the Office of Management and Budget

--Such other officials of the Federal Government as the President shall designate.

On October 15, 1974, in Executive Order 11814, President Ford designated the Secretary of the Interior as Chairman, and added these officers to the Council in activating it:

--Assistant to the President for Economic Affairs

--Secretary of the Treasury

--Secretary of Defense

--The Attorney General

--Secretary of Commerce

--Secretary of Transportation

--Chairman of the Nuclear Regulatory Commission (successor to the Atomic Energy Commission)

--Chairman of the Council of Economic Advisers

--Administrator of the Environmental Protection Agency

--Chairman of the Council on Environmental Quality

--Director of the National Science Foundation

--Executive Director of the Domestic Council

--Administrator of the General Services Administration

--Special Assistant to the President for Consumer Affairs

The Council is to terminate upon establishment of a permanent department responsible for energy and natural resources, or two years after the Council becomes effective, whichever occurs first.

The Council's duties and functions are outlined as follows:

(1) to insure communication and coordination among the agencies of the Federal Government which have responsibilities for development and implementation of energy policy or for management of energy resources;
(2) to make recommendations to the President and to Congress for measures to improve implementation of Federal energy policies or management of energy resources;
(3) to advise the President in preparation of reorganization recommendations for energy coordination required in Section 110 of the Act.

Office of Management and Budget (OMB)

The OMB was established by Reorganization Plan No. 2 of 1970. As the office in the President's office responsible for evaluating budget needs of all segments of the Federal Government, and thus responsible for fully comprehending the scope of existing programs, the OMB has a pivotal policy role. OMB also has a well-developed staff capability in most major program areas, and by supplying analysis and many recommendations for energy policy, has become de facto a central energy agency. On April 18, 1973, the President established an Energy and Science Division in OMB, and the OMB staff provided a major portion of the staff work for the Energy Policy Office which preceded the FEO and FEA and which, unlike FEO, had very little staffing.

In the period preceding the current energy crisis, OMB had consistently played a central role in energy decisions. The amount of funding for energy R & D programs, whether to lease Federal lands for mineral exploitation, and similar policy issues which cumulatively shaped the piecemeal Federal energy policy, were largely and still are considerably shaped by OMB, using its budgetary powers for leverage. In mapping future energy R & D strategy and planning energy reorganization OMB continues to play an important role.

Thus, although energy is not specifically mentioned in its mandate, OMB must be counted among the significant energy units. This remains true largely as a result of the absence of a well-articulated organizational entity which can assume the central, comprehensive role.

Council on Environmental Quality (CEQ)

The CEQ was established by the National Environmental Quality Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.). It consists of three members appointed by the President, with advice and consent of the Senate. Its purpose is to formulate and recommend national policies to promote improvement of the quality of the environment. It performs continuing analyses of changes or trends in the national environment, and of activities which have impacts on the environment.

The CEQ includes an Energy Programs Staff, which has been assigned to assess various aspects of energy questions as they impact upon environmental considerations.

CEQ has arranged with various Federal agencies, including National Science Foundation, and academic organizations to carry out a number of specific studies. These include:

--Environmental impact assessment of oil and gas operations in the Atlantic and Alaska Outer Continental Shelf;

--Offshore nuclear power plants and attendant environmental hazards;

--Study of siting and safety of liquid natural gas facilities;

--A general report on the environmental impacts of end uses of various types of energy;

--Effects of inter-fuels competition on environmental concerns;

--Environmental impacts of deepwater port development.

EXECUTIVE DEPARTMENTS

A number of the Cabinet Departments have important energy functions. However, the Department of the Interior is by far the primary energy department, having been historically the major energy resource management center of the Federal Government. It continues to play an important role along with the recently established independent energy agencies. Listed below are the Executive Departments with important energy functions, with the agencies within them that execute these functions.

Department of the Interior

The Interior Department serves as the general custodian of the Federal lands, and through the Bureau of Mines and the Geological Survey has been and continues to be a primary collector of data on the mineral resources of the Nation. Its responsibilities in energy are carried out by several offices within the Department, which are listed below.

Assistant Secretary for Energy and Minerals

Most of the Department's responsibilities concerning energy are carried out by several offices and bureaus which function under the Assistant Secretary for Energy and Minerals. These are the Geological Survey, Bureau of Mines, Mining Safety and Enforcement Administration, the four regional power administrations, and the Office of Minerals Policy Development.

In addition to the specific responsibilities delegated to these offices, which are described below under each one, the staff of the Assistant Secretary may be called upon to carry out comprehensive policy studies or suggest policy in issues which require an over-all perspective. The Assistant Secretary for Energy and Minerals is in a key energy policy position, and frequently must represent the energy positions of the Interior Department in interagency efforts and in hearings before the Congress.

Office of Minerals Policy Development

This office was established on April 17, 1974, by Secretarial Order 2964. It is charged with overseeing development of policies, programs, and legislative initiatives regarding minerals conservation, performs selective departmental-level analyses of policy options, and coordinates mineral policy analysis, minerals conservation, and mineral data analysis within the Department. This includes both energy and other minerals. The Office is the Assistant Secretary's staff in forecasting, evaluation, and appraisals of minerals plans and programs.

Bureau of Mines (BOM)

The BOM was established by the Organic Act of May 16, 1910 (36 Stat. 369; 30 U.S.C. 1, 3, 5-7), as amended. It is the major Federal agency for handling mineral extraction and processing issues and problems; in this connection it carries out data collection and statistical functions for all minerals and fuels and it carries out research on coal mining technology. Additional functions in research and development on various types of energy resource development were transferred to the ERDA in the Energy Reorganization Act of 1974.

Mining research includes mine health and safety, more productive mining practices, recycling of solid wastes, more efficient extraction techniques.

The BOM collects, compiles, analyzes and publishes data on all phases of mineral resource development, including energy and fuel resources. It contributes to the FEA data collection programs. Among its programs in mineral data are the Mines, Energy, Resources, Information and Transportation (MERIT) program and the Minerals Availability System (MAS) program.

U.S. Geological Survey (USGS)

The USGS originated in the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) which gave it the basic function of classifying all the public lands and the "examination of the geological structure, mineral resources, and products of the national domain."

Under its organic act, the Geological Survey has broad responsibilities for the gathering and evaluation of data on the Nation's mineral, fuel and water resources, both within and outside the national domain. It conducts geological surveys, including geophysical and geochemical studies to develop data and knowledge for use in evaluating the Nation's mineral resources; it classifies Federal lands as to their value for leasable minerals. The USGS regulates operations of private industry on mining and oil and gas leases on public domain, acquired, Indian, Outer Continental Shelf (OCS), and certain Naval Petroleum Reserve lands. Its objectives in carrying out this regulation are to ensure maximum utilization and prevent waste of mineral resources, to limit environmental damage, and to protect public health and safety. It grants permits for pre-lease exploration and post-lease drilling operations in the OCS, and carries out inspections to insure compliance.

Among its other energy-related duties, the Survey includes establishing maximum rates of production for producing oil wells on the OCS, maintaining production accounts and collecting mineral lease royalties, and it prepares and publishes maps and reports of mineral resources on the Federal lands. It maintains a Computerized Resources Information Bank (CRIB) which is designed to include both domestic and international entries on minerals and material resources.

Mining Enforcement and Safety Administration

This entity was established by Secretarial Order 2953 on May 7, 1973. This order gave to the new Administration the responsibilities of the Bureau of Mines under the Federal Metal and Nonmetallic Mine Safety Act (80 Stat. 772; 30 U.S.C. 721) and, except for certain research on mine safety, the functions under the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742; 30 U.S.C. 801).

The Administration conducts programs to control health hazards and reduce injuries in the mineral extraction operations; it formulates standards for health and safety, and carries out inspection, investigations and other enforcement measures. Technical support is provided, along with education and training programs.

Regional Power Administrations

There are four major regional power administrations in the Interior Department, whose basic functions are to market and distribute electric power and energy from Federal hydroelectric porjects, which are constructed and operated by either the Army Corps of Engineers or the Bureau of Reclamation. Each administration participates with other agencies and non-Federal groups to plan for the region's orderly development of electric power; each is responsible for these functions in a specific area. These are:

The Bonneville Power Administration for the Pacific Northwest, marketing power produced by the Federal Columbia River Power System; the Alaska Power Administration for Alaska; The Southeastern Power Administration for the states of West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and Kentucky; and the Southwestern Power Administration for the states of Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana.

Assistant Secretary for Land and Water Resources

Through his responsibilities for public land management and for land use and water resource planning, the Assistant Secretary for Land and Water Resources has charge of one major and one secondary energy function in the Bureau of Land Management and the Bureau of Reclamation, respectively.

Bureau of Land Management (BLM)

The BLM was created July 16, 1946 through the President's Reorganization Plan No. 3 of 1946 (5 U.S.C. 133y-16). The Bureau manages all the national resource lands and their resources, including the mineral resources of acquired lands and the Outer Continental Shelf (OCS). Its primary area of concern related to energy minerals is in its administration of mineral leasing authorities on public lands and the OCS. Large amounts of coal, oil shale, and petroleum are found in areas administered by the BLM.

It selects tracts to be leased for fuels exploration and production, and is responsible for issuing bid calls, administering leasing procedures, issuing leases, and setting lease requirements. Among its duties is the preparation of environmental impact statements for its leasing activities and for specific tracts of lands or tracts in the OCS.

Bureau of Reclamation

The Bureau was established by the Secretary to carry out the Reclamation Act of 1902 (43 U.S.C. 391 et seq.). Its primary function is the development of water and related land resources throughout the 17 contiguous Western states. Among the projects it constructs and maintains in carrying out its mandate, the Bureau is responsible for numerous hydroelectric power generation plants. The power from these projects is marketed and distributed by the regional power administrations described above.

Department of Defense

Army Corps of Engineers

The Army Corps of Engineers serves as the major water resources development agency of the Federal Government, and is also charged with protecting navigability of the Nation's waterways. Through both of these responsibilities the Corps is involved in energy resource questions.

Water resource development involves the construction of dams, and in many cases the Corps constructs and operates hydroelectric power projects. The power is marketed through the regional power administrations in the Interior Department.

In protecting navigability of the Nation's coastal waters, the Corps has permit authorities for waters off a number of coastal states in areas where exploration or production of oil resources on the Outer Continental Shelf are being carried out. The Corps has responsibility for issuing permits certifying that no obstructions to navigation exists in the case of offshore oil rigs or other man-made structures.

Office of Naval Petroleum and Oil Shale Reserves

Within the office of the Assistant Secretary of the Navy for Installations and Logistics is the Office of Naval Petroleum and Oil Shale Reserves. It maintains four major petroleum reserves in California, Wyoming, and Alaska, and three Naval Oil Shale Reserves in Colorado and Utah. It administers these reserves under statute, 10 U.S.C. 7421-7438, with the principal mission of developing and maintaining the reserves for the production of oil when required for national defense.

The Office serves as principal Department of the Navy advisory office on crude petroleum and oil shale matters, both domestic and foreign.

Department of State

Bureau of Economic and Business Affairs, Office of Fuels and Energy

The Department of State is the lead U.S. agency in its dealings with international energy issues. Because imported oil is a crucial element in U.S. energy utilization, the State Department has been active in important international negotiations dealing with the questions of imports, and of international agreements on oil questions. The Office of Fuels and Energy provides the major staffing for these activities. The Department works closely with FEA and the Treasury Department in its negotiations in energy issues; in addition, it coordinates the work of other U.S. energy agencies in their work with international questions, for example the research and development questions in which ERDA participates directly with other governments.

The Office works closely with the Central Intelligence Agency, which through its economic research staff keeps statistics and other data on oil industries and activities in other nations.

A central effort over the past two years has been the U.S. participation in setting up the International Energy Agency (IEA), which is currently handled in the Office of Fuels and Energy in the State Department.

The IEA began functioning in November 1974 through an agreement among 18 major oil consuming nations. Members include the U.S., Canada, Japan, and 15 European nations. It is functioning under the auspices of the Organization of Economic Cooperation and Development (OECD), with offices in Paris, France. The IEA is dealing with a short-term response to energy problems through an oil-sharing agreement, and will work for long-term efforts through cooperation among the members to aid efforts to reduce dependence on imported energy sources.

Department of the Treasury

The Treasury Department through its responsibility for the Nation's monetary affairs, is active in energy policy as it involves balance of payments and trade issues.

Deputy Assistant Secretary for Energy Policy

This office operates under the Assistant Secretary for Trade, Energy, and Financial Resources Policy Coordination, which in turn is in the Office of the Under Secretary for Monetary Affairs. It is responsible for assisting in formulation and implementation of Treasury Department positions in issues of trade and energy policy, and is responsible for monetary aspects of relations with oil producing nations. Because this is a key aspect of oil negotiations, the Treasury Department works closely with the State Department in its energy negotiations with both oil consuming and oil producing nations.

OTHER AGENCIES AND DEPARTMENTS

Listed above are the Federal entities with direct energy mandates or activities. In addition to these, there are numerous agencies with important impacts on aspects of energy questions, or with more minor energy mandates attached to their major, non-energy missions.

Other independent agencies include the following:

Interstate Commerce Commission (ICC)

The ICC was established an an independent regulatory commission by the February 4, 1887, act to regulate commerce (24 Stat. 379, 383; 49 U.S.C. 1-22). The Commission regulates transportation economics and service. Its impact on energy utilization is through rate regulation that affects rail, truck, or water transport of fuel supplies.

National Aeronautics and Space Administration (NASA)

The NASA was established by the National Aeronautics and Space Act of 1958 (72 Stat. 426; 42 U.S.C. 2451), as amended. It has an Office of Energy Programs which is responsible for coordinating NASA's support of other Federal agencies conducting energy R & D. It manages existing NASA programs applying aeronautics and space technology to generation, transmission, storage, conservation, use, and management of energy applications. The NASA energy effort has concentrated on an Energy Conversion Alternatives Study which involves evaluation of alternative techniques for obtaining electric power from domestic coal. The NASA earth resources technology satellite, LANDSAT, obtains data and information which is relevant to solar and geothermal energy research, such as a Heat Capacity Mapping Mission, which locates potential sites for geothermal or solar resource development.

Tennessee Valley Authority (TVA)

The TVA is a corporation created by the Act of May 18, 1933 (48 Stat. 58; 16 U.S.C. 831-831dd). Its purpose is to conduct a unified program of resource conservation, development, and use in order to advance the economic development of the Tennessee Valley region. In connection with this, the TVA operates hydroelectric projects, fossil fuel-fired electric generation plants, and some atomic energy production facilities in order to provide electricity to the region. It is a major producer of electric power, and it is a major consumer of energy fuels.

Other entities of relevance to energy questions in the Office of the President include:

Central Intelligence Agency (CIA)

Central Intelligence Agency (CIA) collects information and data on energy industries and energy policies and issues from other nations, and is a primary source of information on these questions for the State Department. It collects this information as part of its general functions in economic research.

Council of Economic Advisers (CEA)

The Council of Economic Advisers (CEA) is a key policy group which provides important input into energy policy formation by advising the President on economic ramifications of various energy conservation, allocation, or other measures.

Other Executive Departments with energy activities include:

Department of Agriculture

The Department of Agriculture does some research on identification of energy requirements in the agricultural sector, the potential for conservation of energy in food fiber and wood production, and the impact of energy development in rural U.S. areas. Included is analysis of energy costs and alternative levels of energy development and the consequences for agriculture.

Department of Commerce

The Department of Commerce has several energy-related efforts within it. The Energy Programs Office is generally concerned with effects of energy problems on business and commerce; through inter-agency task forces and studies, the Department of Commerce contributes to Government-wide energy efforts. The National Bureau of Standards does some research and development related to energy. It has an energy conservation program with three major objectives: performance criteria and standards for insulating material to improve energy conservation in buildings; labeling and energy efficiency standards programs for household appliances and equipment; and instrumentation for measuring electrical parameters of extra-high-voltage transmission lines and for measuring electric power and energy in transmission and control systems. Some research in energy conversion is done to determine the properties and failure mechanisms of materials used in advanced energy conversion systems. The National Oceanic and Atmospheric Administration (NOAA) is involved to a minor degree in the mapping and surveying efforts of the Geological Survey in assessing mineral resources of the Outer Continental Shelf.

Department of Housing and Urban Development (HUD)

The Department of Housing and Urban Development (HUD) is responsible for developing energy conservation standards for model building codes, primarily for insulation. Section 814 of the Housing and Community Development Act of 1974 (P.L. 93-383) gives HUD authority to undertake demonstration projects to determine the economic and technical feasibility of utilizing solar energy for heating or cooling residential housing, including housing design or structures.

Department of Transportation (DOT)

The Department of Transportation (DOT) has general responsibility for research in transportation systems, and for urban mass transportation. Both of these activities of the Department have important consequences for over-all design of transportation in the Nation, and thus for fuel usage in transportation. DOT is carrying out energy R & D programs to improve fuel conservation, providing for evaluation of components and subsystems that appear to offer improvements in fuel economy of cars and trucks. These programs will also establish a data base and develop simulation models necessary for assessment of effects on energy conservation of present and projected automotive vehicles designed to improve fuel economy. The U.S. Coast Guard operates within the DOT, and has general responsibility for enforcing Federal laws in the nation's ocean waters. In this connection, the Coast Guard has permit authority for oil production facilities in the Outer Continental Shelf governing the safety of the man-made structures involved. It is also responsible for prevention and clean-up of oil spills.

APPENDICES: Examples of Agencies Involved In Specific Energy Issues

I. Oil and Gas Leasing in the Outer Continental Shelf

II. Coal Production and Utilization Operations

APPENDIX I - AGENCIES INVOLVED IN OIL AND GAS LEASING IN THE OUTER CONTINENTAL SHELF

The following Federal agencies play significant roles in the leasing of oil and gas production rights on the Outer Continental Shelf (OCS):

Interior Department: the U.S. Geological Survey (USGS):

--Does resource assessment surveys, which provide the basic information for decisions on selection of tracts for leasing. The USGS specifically advises the BLM on tract selection;

--Grants pre-leasing exploration permits, specifying requirements which must be followed to protect various safety and environmental variables;

--Grants post-lease drilling permits, specifying requirements which must be followed to protect safety and the environment;

--Carries out detailed inspections of production facilities to insure compliance to requirements in permits. This includes, for example, the presence of a USGS official during any bottom sampling or bottom coring activities, which are particularly important to environmental protection.

Interior Department: the Bureau of Land Management:

--Selects tracts to be leased, on basis of information and advice from USGS;

--Prepares environmental impact statements on tract selections and leasing;

--Issues bid calls, sets bidding requirements;

--Administers lease procedures and grants leases.

These activities make BLM the "lead agency" in the OCS leasing process.

Coast Guard:

--Sets safety requirements for marking offshore structures and for personnel on the structures, such as drilling rigs and any artificial islands; in this connection, grants safety permits;

--Monitors for pollution in the OCS and aids prevention and clean-up of oil spills.

Army Corps of Engineers:

--Has basic responsibility for maintaining the navigability of the Nation's waters. In this connection, in some states, the Army Corps grants permits for offshore structures to assure that no obstruction to navigation is created.

Environmental Protection Agency (EPA):

--Sets pollution standards for water in OCS, and issues discharge permits;

--Consults with other agencies on environmental pollution of OCS operations, and review environmental impact statements.

Department of Labor: Occupational Safety and Health Administration:

--Sets standards for and conducts inspections of the working environment of oil and gas production operations.

In addition to these direct functions, there are several cooperative agreements between USGS and other Federal agencies to insure that the issues within their purview are not threatened by OCS operations. Agreements for standards to protect their interests in the USGS permits are in effect with: the National Marine Fisheries Service of NOAA; the Bureau of Sports Fisheries and Wildlife in Interior, and BLM of Interior.

APPENDIX II - AGENCIES INVOLVED IN COAL PRODUCTION AND UTILIZATION OPERATIONS

The following agencies play significant roles in the regulation of coal production and utilization:

Interior Department: the U.S. Geological Survey (USGS):

--Basic resource assessment, mapping, and location of coal resources on the public lands, and data repository for information on other coal resources. Information to BLM on tracts for leasing with respect to public lands.

Interior Department: the Bureau of Land Management (BLM):

--Selects tracts to be leased on public lands, and administers leasing procedures.

--Would do environmental impact statements on leases of public lands for coal mining.

Interior Department: Mining Enforcement and Safety Administration:

--This entity was established May 7, 1973, separating its functions from the Bureau of Mines where they were previously carried out. It administers the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742; 30 U.S.C. 801). In this connection it sets standards for health and safety precautions required in coal mines. Inspection is carried out to insure compliance with these standards.

Energy Research and Development Administration (ERDA):

--The Office of Coal Research was transferred to ERDA, effective January 1975; this office does research and development on coal liquefaction and gasification--the synthetic fuels that can be derived from coal.

Interior Department: Bureau of Mines:

--Some work on coal mining technology improvements continues in the BOM.

Environmental Protection Agency (EPA):

--Through its air quality standards, the EPA has effectively reduced the usefulness and economic viability of high-sulphur coal as a fuel. Since this is a a source of the very health-threatening sulphur oxides, high-sulfur coal (which is the case with most coal) has been abandoned until the very recent energy crisis. The mandatory use of pollution abatement equipment in connection with this fuel also serves as a brake on its utilization.

--The EPA does some research on pollution abatement techniques for high-sulphur fuels.

--It would be an important review agency for environmental impact statements on strip mining.

The agencies listed above have the most direct functions affecting coal production and utilization. There are others with more peripheral operations. These include:

The Tennessee Valley Authority (TVA) is a major user and customer for coal for use in power generation; its policies on fuel utilization affect coal demand considerably.

Social Security Administration is now responsible for administering and paying benefits for miners disabled by black lung disease. The legislative intent of the black lung law was that these payments should be picked up by the miners themselves after a phase-out period. This is not yet occurring, but if it does, coal costs will go up.

The Interstate Commerce Commission regulates coal transportation by rail, pipeline and barge, affecting rates and schedules.

The Coast Guard has safety regulations in effect for barge movement of coal, and seacoast collier movement.

The Health, Education and Welfare Department (HEW) is involved in research on and treatment of black lung disease.

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GOVERNMENT REORGANIZATION FOR ENERGY, ENVIRONMENT AND NATURAL RESOURCES

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CONGRESS AND THE NATION'S ENVIRONMENT

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CHAPTER 11

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LEGISLATIVE PROPOSALS

The major reorganization proposal which received action by one or both houses, without reaching final enactment, was the proposal for a Department of Energy and Natural Resources (DENR). Due to the probable continuing Administration interest in the enactment of this proposal, it is described in considerable detail here. Described more briefly are several other reorganization proposals affecting energy, environmental or resource issues.

DEPARTMENT OF ENERGY AND NATURAL RESOURCES

The DENR proposal of the 93rd Congress evolved from a broad reorganizational effort of the 92nd Congress.

In 1971 President Nixon proposed a massive restructuring in which seven Executive Departments would be dismantled and their elements reconstituted in four new, larger cabinet-level departments: Natural Resources, Economic Affairs, Community Development, and Human Resources. The intention was to organize the functions of the Federal Government around "basic goals" of society. This proposal emanated from the recommendations of the President's Advisory Council on Executive Organization (known generally as the "Ash Council.") These recommendations were made following studies by the Council which began in 1969.

The DENR proposal was built upon the 1971 proposal for the Department of Natural Resources (DNR). In areas other than energy, there are few differences between the DNR and DENR in functions to be transferred from other agencies. However, the 93d Congress proposal goes beyond that of the 1971 DNR proposal in its effect on the Atomic Energy Commission (AEC), which would be split between the proposed Energy Research and Development Administration (ERDA) and the proposed Nuclear Energy Commission (NEC). The 1971 proposal would have left AEC basically intact and given most other energy R&D and policy to the DNR. In the DENR proposal, all energy R&D was placed in a separate, independent agency—the Energy Research and Development Administration [ERDA—described above.]

The White House Fact Sheet on the DENR proposal stated:

> DENR would have the responsibility for assuring that future demands for water, timber, minerals, and energy resources are met without sacrificing our forests, lakes, wilderness, beaches, and the general environment—the oceans, the atmosphere, the lands and their interaction.
>
> DENR would have an organization and managerial capacity which could most effectively and vigorously develop and implement comprehensive natural resources policies and programs.
>
> . . . The President has again stressed the need to consolidate key natural resources functions in the new Department so that we can meet better our national objectives.

In brief, the DENR was to be assigned a policy function in developing and implementing comprehensive natural resources policies generally.

Table 1 outlines the components from each Federal agency which were proposed for transfer to the five organizational units of the DENR.

The White House Fact Sheet indicated that the units to be transferred to the DENR have a combined budget total for FY 1973 estimated at $5.38 billion, and the total number of full-time employees would be 91,149.

The proposals for the DNR and the DENR both offered the same administrative format, establishing five administrations to handle five natural resource areas. The only difference in this format is that the former DNR's energy unit was called the "Energy and Mineral Resources Administration (EMRA)", and the proposed DENR unit is named the "Energy and Minerals Administration."

TABLE 1.—PROGRAMS PROPOSED FOR TRANSFER TO THE DEPARTMENT OF ENERGY AND NATURAL RESOURCES (DENR)

Energy and Minerals Administration	Land and Recreation Resources Administration	Water Resources Administration	Oceanic Atmosphere and Earth Science Administration	Indian and Territories Affairs
From Interior: Office of Energy Conservation. Office of Energy, Data and Analysis. Office of Oil and Gas. Office of R. & D. Bureau of Mines (except energy research centers). Mining Enforcement and Safety Administration. Bonneville, Southeastern, Southwestern and Alaska Power Administration. From AEC: Uranium and thorium assessment program. From Transportation: Office of Pipeline Safety.	From Interior: Bureau of Outdoor Recreation. Bureau of Land Management. National Park Service. Bureau of Sport Fisheries and Wildlife. From Agriculture: Forest Service.	From Interior: Bureau of Reclamation. Office of Saline Water. Office of Water Resources Research. From Army (Corps of Engineers): Policy, planning, and funding of Civil functions. From Agriculture: Aspects of Soil Conservation Service. River Basin Surveys and Investigations Program. Planning and funding for large watershed and flood prevention projects. From Water Resources Council: All functions.	From Interior: Geological Survey. From Commerce: National Oceanic and Atmospheric Administration (NOAA).	From Interior: Combine Office of Territories and Bureau of Indian Affairs.

Table 2 gives a comparison and illustrates the differences in elements proposed for transfer to the Administration units in each of the proposals.

Under the 1971 DNR proposal, seven existing departments were to be divided among the four new units; the non-energy differences in the DENR proposal arise primarily from the continued existence, under the 1973 DENR proposal, of the Agriculture Department. Thus the Agriculture Department would retain the Economic Research Service and the Agricultural Research Service's Soil and Water Conservation section. These would have been transferred to the Land and Recreation Resources Administration under the 1971 DNR proposal.

In 1973, the transfer of the Power Marketing Agencies was proposed for the Energy Administration instead of being transferred to the Water Resources Administration as proposed in the DNR proposal. Also, under the DNR, all functions of the Soil Conservation Service would have been transferred from the Agriculture Department, but under the DENR, only some aspects of the SCS would be switched from Agriculture: River basin surveys and investigations programs, and planning and funding for large watershed and flood prevention projects.

There are no differences between the DENR and the DNR with respect to the Oceanic, Atmospheric and Earth Sciences Administration or in the Indian and Territorial Affairs Unit.

TABLE 2.—COMPARISON OF UNITS TRANSFERRED: 1971 DNR AND 1973 DENR/ERDA

DNR (1971)	DENR (1973)	ERDA (1973)
	To: ENERGY AND MINERALS UNIT	
	From: Interior	
Bureau of Mines: All functions	Bureau of Mines except energy research centers.	Energy research centers of Bureau of Mines.
Office of Coal Research		Office of Coal Research.
Office of Oil and Gas	Office of Oil and Gas	
Oil Import Administration and Appeals Board.	Abolished in 1973	
Office of Minerals and Solid Fuels	Abolished-function transferred to Assistant Secretary of Energy and Minerals.	
Defense Electric Power	Not mentioned in 1973 proposal	
Underground Power Transmission Research.		Underground Power Transmission Research.
	Office of Research and Development (established in 1973).	
	Office of Energy Conservation (established in 1973).	
	Office of Energy Data Analysis (established in 1973).	
	Mining Enforcement and Safety (established in 1973).	
These were put in Water Resources in DNR.	Bonneville, Southeastern, Southwestern, and Alaska Power Marketing Administrations.	
	From: Atomic Energy Commission	
Raw materials management generally	Uranium and thorium assessment	
Uranium enrichment		Nuclear materials production.
Plowshare Program: just funding and policy.		Plowshare program: All functions.
Civilian reactor development: funding and policy (R. & D. to stay in AEC).		Reactor development: All programs civilian and military.
		Controlled thermonuclear research (fusion).[1]
		Physical research.[1]
		Biomedical and environmental research.[1]
		Military applications.[1]
		Other nonregulatory functions[1]
		Nonnuclear energy research and development.[1]

Footnote at end of table.

TABLE 2.—COMPARISON OF UNITS TRANSFERRED: 1971 DNR AND 1973 DENR/ERDA—Continued

DNR (1971)	DENR (1973)	ERDA (1973)
	From: Department of Transportation	
Oil and Gas Pipeline Safety	Office of Pipeline Safety	
	To: WATER RESOURCES ADMINISTRATION	
	From: Department of the Interior	
Bureau of Reclamation	Same	
Office of Saline Water	do	
Power Marketing Agencies (Bonneville, Southeastern, Southwestern, and Alaska).	Put in Energy and Minerals Administration in 1973.	
	From: Department of Agriculture	
Soil Conservation Service: All functions	Aspects of Soil Conservation Service: River basin surveys and investigations and programs. Planning and funding for large watershed and flood prevention projects.	
From Farmers Home Administration: Watershed loans.	Not transferred in 1973	
	From: Army Corps of Engineers	
Policy, planning and funding of civil functions.	Same	
	From: Water Resources Council	
All Functions	Same	
	To: LAND AND RECREATION RESOURCES ADMINISTRATION	
	From: Interior	
Bureau of Land Management	Same	
Bureau of Outdoor Recreation	do	
National Park Service	do	
Bureau of Sport Fisheries and Wildlife	do	
	From: Agriculture	
Forest Service	Same	
From Economic Research Service: Natural Resources Economics.	Not transferred in 1973	
From Agriculture Research Service: Soil and Water Conservation.	do	
	To: OCEANIC, ATMOSPHERIC AND EARTH SCIENCES ADMINISTRATION	
	From: Department of the Interior	
Geological Survey	Same	
	From: Department of Commerce	
National Oceanic and Atmospheric Administration (NOAA).	Same	
	To: INDIAN AND TERRITORIAL AFFAIRS	
	From: Department of the Interior	
Bureau of Indian Affairs	Same	
Office of Territories	do	

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[1] Not proposed for transfer to DNR in 1971; these units would have stayed in the AEC under the 1971 plan.

Several of the offices proposed for transfer to the DENR were not in existence in 1971. These are the Office of Research and Development, the Office of Mining Enforcement and Safety, the Office of Energy Conservation, and the Office of Energy Data Analysis—all of which were set up within the Department of the Interior in May, 1973. In its creation, the Office of Research and Development was given duties connected with functions which would be transferred in the June 29 proposal to the ERDA. This left the role of this office unclear. Both the Office of Energy Data Analysis and Office of Energy Conservation which were transferred to FEA carry out functions that have necessary input into policy determinations.

The 1971 proposal called for energy to be handled entirely by EMRA, which was to be a constituent unit within the Department of Natural Resources. In dealing with outside agencies, the EMRA Administrator would have had to clear his actions through the Secretary or his Deputy, through under secretaries[1] and through an Assistant Secretary for Research and Development.[2] As contemplated by the 1971 plan, the EMRA Administrator and other Administrators within DNR would be the managers and implementors of the Department's programs.

The 1973 proposal, however, would divide energy activities among an Energy Policy Office in the Executive Office of the President, whose director presumably has direct access to that office; the Administrator of ERDA, who as head of an independent agency would deal directly with the Executive Office of the President; a Nuclear Energy Commission whose Chairman also would deal directly with the Executive Office of the President; and the Energy and Minerals Administration of the DENR.

In essence, the 1973 plan removes one tier of intervening management from the arrangement proposed in 1971 in most areas of energy management by taking them out of the major department (the DENR) and putting them in separate organizations.

Several fundamental questions were raised during the hearings on the DENR proposal. The more important of these, and the witnesses' comments, are summarized below.

In testimony, Budget Director Roy Ash conceded that according to organizational theory the functions of ERDA should be folded into the DENR, but in light of existing capabilities, the best way to meet the urgent short-term need is to take advantage of AEC's already functioning structure and laboratory facilities. Ash indicated that it would be desirable to avoid an "organizational trauma" for AEC. Because of the urgency of the energy problem, "NASA-type treatment" is needed and can best be supplied by AEC.

Interior Secretary Rogers Morton also acknowledged difficulties in the rationale of splitting off energy functions from the DENR; but he favored this approach because it is "the route we must go to get the technology." He pointed out that in the "real world", ERDA is the kind of structure that can attract funding. He also argued that a research organization would have the advantage of being free of the burdens of reconciling the pressures of regulation and/or resource management.

Effects on Congressional Jurisdictions: One of the major problems involved in major reorganization of legislatively authorized Federal agencies is the effects on congressional committee jurisdictions and potential opposition to such changes by members of the affected committees.

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[1] DNR would have had two Under Secretaries to serve as staff arms of the departmental leadership in such areas as the development of overall policy strategy and plans for implementation, organization, business management, information systems, resources deployment, and the efficiency and effectiveness of the department.

[2] The Assistant Secretary for Research and Development would directly support the departmental leadership and would guide, promote, evaluate and coordinate the research technology and technology transfer activities of the department.

Though this is a major question connected with the DENR proposal, it was raised only a few times in the hearings. Chairman Holifield of the House Government Operations Committee indicated his concern that matters of congressional jurisdiction be considered—and resolved—in detail. Interior Secretary Morton stressed the effects on congressional jurisdiction, particularly with regard to the closely related question of the survival of the transferred federal agencies and bureaus as individual entities within the DENR.

Regional Aspects of DENR: In response to a question about decentralization and the DENR, Budget Director Ash explained that each of the five administrations of the DENR would have its own representative in each of ten Federal Regions. In addition, there would be a representative of the DENR Secretary's Office in each of the regions to exercise a coordinative role for the other five DENR representatives in each region.

A question was raised as to whether the regional administration representatives might not have problems being responsible to both the head of their DENR Administration in Washington and to the regional representative of the DENR Secretary. Mr. Ash's deputy answered that no problem is foreseen; as long as the line of authority in Washington from the Secretary to each Administration is clear, the line of authority in the field would be clear.

Location of Indian and Territorial Affairs: Several witnesses suggested that Indian and Territorial Affairs might more logically be transferred to the Department of Health, Education and Welfare, since community welfare programs are handled there.

However, both OMB and Interior spokesmen responded that the peoples to be affected had indicated a preference to be associated with the Department handling land questions. This has been historically the case, communications of long standing had been established and should be continued, and the relationship of the Federal Government to these peoples was basically through the land.

Location of Coal Mining Safety in DENR: It was suggested that perhaps a more logical location for Coal Mining Safety and Enforcement would be in the Department of Labor. While Budget Director Ash saw this as an open question, Interior Secretary Morton indicated a strong preference for keeping development and regulation of mining technology close to the mining safety and enforcement functions. He contended that, since mining safety is so integrally related to use of technology, these two have a definite logical connection.

Water Resources Questions: A number of specific questions were brought up concerning the handling of water resources questions. Among these: the existence of the Water Resources Council as a functioning entity within the DENR was not expected to continue; handling of water resource projects would follow the same steps as they do now. The Army Corps of Engineers was expected to continue functioning without disruption after the proposed transfer of funding, policy and planning of its civil projects to the DENR.

Council on Energy Policy

The Senate passed on May 10, 1973, S. 70, the Energy Policy Act of 1973 which would establish a Council on Energy Policy. This body would have basic purposes very close to those of the Energy Policy-

Office established by President Nixon on June 29, 1973. This bill was incorporated in S. 2744, the ERDA proposal, but was dropped from the bill as enacted.

The purpose of the Council are described in Section 3 would have been as follows:

> (1) Serve as a central point for the collection, analysis and interpretation of energy statistics and data necessary to formulate policies for wise energy management . . .
>
> (2) Coordinate all energy activities of the Federal Government, and provide leadership to State and local governments and other persons engaged in energy activities; and
>
> (3) Prepare, after consultation with other interested organizations and agencies, a long-range comprehensive plan (Energy Plan) for energy development, utilization, and conservation . . .

Specific duties of the Council were delineated as follows:

The Council would be composed of three appointed members, located in the Office of the President, similar to the Council on Environmental Quality;

To serve as principal adviser to the President and the Congress on energy policy and to exercise leadership in formulation of Government policy concerning domestic and international energy issues;

To make recommendations to the President and the Congress resolving conflicts between the policies of different Federal agencies as they relate to energy;

To develop within eighteen months, and annually update, an Energy Plan for energy development, utilization, and conservation in the U.S. to carry out the purposes of Sec. 3, and to hold annual hearings on the Energy Plan;

To review all legislative recommendations and reports sent to Congress, and their accompanying energy resource statements; if the Council disapproves, it would send to Congress and the involved agency a statement of its position;

To keep Congress fully and currently informed of all its activities;

Any budget estimates, recommendations, testimony or comments on legislation sent to the Office of Management and Budget would be sent concurrently to Congress;

To promulgate within six months, guidelines for preparation of energy resource statements by other Federal agencies. These guidelines were to be implemented by Federal agencies within six months. The Council would also promulgate guidelines for the collection, and initial analysis of energy data by other Federal agencies.

The Council would prepare and submit to the President and the Congress beginning by Jan. 1, 1974, an annual energy report to accompany the Energy Plan, which is to include an estimate of energy needs of the U.S. for the next 10 years; estimates of domestic and foreign energy supply; current and foreseeable trends in price, quality, management and utilization of energy resources; catalog of research and development efforts funded by the Federal Government to develop new technologies and meet other energy needs; recommendations for improving energy data and information; a review and appraisal of the adequacy and appropriateness of technologies, including regulatory practices, employed by all levels of government; and recommendations for level of funding for development and application of new technologies.

NATIONAL ENVIRONMENTAL POLICY INSTITUTE ACT OF 1974

Legislation was introduced (H.R. 14468) to establish a National Environmental Policy Institute as a nonprofit corporation. The Institute would be incorporated by the Director of the National Science Foundation, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, and the Chairman of the Board of Directors of the Inter-American Institute of Ecology. The Institute would have these duties:

—development and analysis of policy alternatives for dealing with the environmental problems, using a systematic interdisciplinary approach;

—identification and development of methods and procedures through which presently unquantifiable environmental values may be given consideration in policy evaluation;

—making advice and information it developed available to Congress, and to other government agencies;

—undertaking contract studies for Federal agencies which involve problems of environmental policy analysis of regional or national significance;

—identifying areas where additional environmental research and data collection is needed; and reviewing on a continuing basis national capability and programs for technology assessment;

—supporting laboratory research and the biome modeling and synthesis research programs of the Institute of Ecology.

In the "Findings" section of the bill, the rationale for an independent entity such as this was based on the statement that "as presently constituted, local, state and Federal governments do not have an adequate capacity to analyze, integrate, and evaluate the growing body of environmental research now underway," nor do they have the capacity for development of new or restructured governmental policies and programs for environmental concerns, and further, "there are no existing independent nongovernmental institutions capable of adequately performing these functions in an objective and comprehensive manner on a full-time basis."

Hearings were held, but no action was taken on this legislation in the 93d Congress.

VI. BIBLIOGRAPHY—A SELECTED LIST OF READINGS PERTAINING TO ENERGY POLICY AND ENERGY ORGANIZATION

Prepared by the Environment and Natural Resources Policy Division of the Congressional Research Service of the Library of Congress

Part I consists of selected readings: journal articles and books, published since January 1974 (pp. 1–10).

Part II is a list of Federal publications selected from the approximately 300 issued on the general subject of energy policy since January 1974 (pp. 11–20).

These citations were annotated by the Library Services Division of the Congressional Research Service and collated by A. C. Grenfell, Environment and Natural Resources Policy Division. June 1976.

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No time to confuse: a critique of the final report of the Energy Policy Project of the Ford Foundation A Time to Choose America's Energy Future. San Francisco, Calif., Institute for Contemporary Studies [c 1975] 156 p.

Partial contents.—U.S. energy policy, by M. A. Adelman.—On energy, poverty, and the environment, by M. B. Johnson.—Private enterprise and energy, by W. J. Mead.—"U.S. energy policy in the world context" by A. B. Moore.—Energy research and development, by J. C. DeHaven.

Aron, Joan. Epitaph for a super superagency. New York affairs, v. 2, spring 1975: 80–89.

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U.S. Congress. Technology Assessment Board.

An analysis identifying issues in the fiscal year 1976 ERDA budget; report prepared for the Committee on Science and Technology, U.S. House of Representatives; Committee on Interior and Insular Affairs, U.S. Senate and the Joint Committee on Atomic Energy, Ninety-fourth Congress, first session. Washington, U.S. Govt. Print. Off., 1975. 84 p. "Serial D". At head of title: Joint committee print.

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". . . analyzes the future supply of labor with specific occupational skills and compares the availability to labor requirements for increased energy production."

U.S. Energy Research and Development Administration.

A national plan for energy research, development and demonstration; creating energy choices for the future. [Washington, For sale by the Supt. of Docs., U.S. Govt. Print Off., 1975] 1 v. (various pagings). "ERDA–48". Volume 1: The plan.

According to the Federal Nonnuclear Energy Research and Development Act of 1974, the plan "is to be designed to achieve solutions to energy supply system and associated environmental problems in (a) the immediate and short-term (to the early 1980's); (b) the middle term (the early 1980's to 2000); and (c) the long-term (beyond 2000)."

Second public meeting on a national plan for energy research, development and demonstration; synopsis of proceedings. Seattle, 1975. 51 p. "ERDA–48 (H–2)".

"The Seattle public meeting on 'A National Plan for Energy Research, Development and Demonstration' was held at the Seattle Center on December 2 and 3, 1975. This meeting was the second in a continuing series of scheduled meetings which the Energy Research and Development Administration (ERDA) will conduct throughout the country to create a dialogue with the public and interested regional groups to assure their viewpoints are represented in ERDA's planning process."

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U.S. Energy Research and Development Administration. Office of Conservation.

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". . . traces the history of the various major energy sources, concentrating on the period from the end of World War II to the eve of the Arab oil embargo. The reserves, consumption, technology, economics and government policy toward oil, coal, natural gas, nuclear energy, electric power, and energy sources are examined."

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U.S. Federal Energy Administration. Office of Intergovernment, Regional and Special Programs.

Directory of Federal agencies engaged in energy related activities/Office of Intergovernmental, Regional and Special Programs. Washington: Federal Energy Administration: for sale by the Supt. of Docs., U.S. Govt. Print. Off., 1975. ix, 80 p.; 26 cm.

1. Energy policy—United States—Directories. 2. United States—Executive departments—Directories. I. Title. HD9502.U52 U52 1975.

U.S. Federal Energy Regulation Study Team.

Federal energy regulation: an organizational study. Washington, For sale by the Supt. of Docs., U.S. Govt. Print. Off. 1974. 1 v. (various pagings)

". . . the most pressing need of the Federal energy regulation system at this time is for mechanisms that coordinate, rather than consolidate, diverse agencies and their functions."

U.S. Federal Power Commission. Task Force on Energy Sources Research.

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National power survey: energy conservation; the report and recommendations. Washington. For sale by the Sutp. of Docs., U.S. Govt. Print. Off., 1974. 177 p.

"The Technical Advisory Committee on Conservation of Energy was established by the Federal Power Commission in September 1972. The Committee was given the responsibility to study and report on activities and issues in energy conservation, and to make recommendations as to desirable related policies and actions."

U.S. General Accounting Office.

Actions needed to improve Federal efforts in collecting, analyzing, and reporting energy data; study requested by chairman, Senate Committee on Interior and Insular Affairs. [Washington] 1974. 35 p. "B–178205, Feb. 6, 1974".

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Domestic crude oil pricing policy and related production, Federal Energy Administration. [Washington] 1974. 19 p. "B–178205, Aug. 19, 1974".

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Prepared by Frances Gulick, EPD. Appendix III contains "Nuclear power and the 94th Congress : a mid-term report," by Warren H. Donnelly and Barbara L. Rather.

U.S. Library of Congress. Environmental Policy Division.

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Congress and the Nation's environment; environmental and natural resources affairs of the 93d Congress. Prepared . . . at the request of Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, United States Senate. Washington, U.S. Govt. Print Off., 1975. 940 p. At head of title : 94th Cong., 1st sess. Committee print.

Contents.—Energy and fuels, by F. Gulick, W. Donnelly, D. Lindahl, D. Beard, G. Pagliano, G. Siehl, B. Rather, S. Abbasi, R. Anderson, D. Thompson, and W. Fletcher—Mines and minerals, by D. Thompson and L. Lindahl.—Land use policy and planing, by W. Fletcher.—Public lands, by R. Wolf.—Water resources, by H. Brown.—Parks, recreation and wilderness, by G. Siehl.—Forestry, by R. Wolf.—Fisheries and wildlife conservation, by W. Jolly.—Appraisal of natural resources supply and demand, by H. Hughes.—Urban environment, by S. Abbasi.—Government reorganization for energy, environment and natural resources, by S. Abbasi.—Natural hazards, by H. Brown.

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